the number of irrigable acres of each tract supplied with project water shall be multiplied by a percentage which equals the percentage that project water would constitute of the total irrigation water supply to the tract in a year of average precipitation.

AMENDMENT OF INCONSISTENT CONTRACTS

SEC. 11. The Secretary is hereby authorized and directed to amend any provision of any contract between the Secretary and any other party existing upon the date of enactment of this Act which is inconsistent with the provisions of this Act, upon the request of such other party.

APPLICABILITY OF ADMINISTRATIVE PROCEDURE

SEC. 12. Determination made by the Secretary pursuant to the authority granted in this Act shall be in accordance with the provisions of chapter 5 of title 5 of the United States Code.

SEC. 13. Except to the extent they are inconsistent with the provisions of this Act, Federal Reclamation laws, including those provisions relating to the implementation of the acreage limitation, shall remain in full force and effect.●

By Mr. DOLE:

S. 736. A bill to amend the Internal Revenue Code of 1954 to clarify the standards used for determining whether individuals are not employees for purposes of the employment taxes; to the Committee on Finance.

EMPLOYMENT TAX ACT OF 1979

● Mr. DOLE. Mr. President, I send to the desk a bill to clarify the standards used for determining whether an individual is an independent contractor or an employee.

DOLE AMENDMENT

Mr. President, the recently signed Revenue Act contains a provision which I sponsored to allow employers to continue to treat individuals as independent contractors if there was a "reasonable basis" for treating them as independent contractors in the past. The employment tax controversy up until the passage of section 530 of the Revenue Act of 1978, was an issue that had been nagging Congress for several years.

IRS AUDIT CAMPAIGN

Since the early 1970's, the Internal Revenue Service has undertaken an aggressive audit campaign of employment taxes. The problem of increased audits and retroactive tax assessments issued by the IRS was recognized in the Tax Reform Act of 1976 conference report. Congress made it clear in the 1976 legislation that the IRS "not apply any changed position or newly stated position in this general subject area to past as opposed to future taxable year." However, the Internal Revenue Service ignored the warnings of Congress.

The distinction between an independent contractor and an employee is important because employers do not have to withhold on wages of independent contractors, nor pay social security or unemployment taxes. If the IRS prevails on a reclassification of employment tax status from an independent contractor to employee, the employer becomes liable for employment taxes which have not been withheld or paid to the treasury.

COMMON LAW

Independent contractors are distinguished from employees for tax purposes by common law. The adoption of the common law rules and the application of these rules by the court have produced decisions that are widely understood and accepted. However, several years ago, many taxpayers, including direct sellers, insurance salesmen, and realtors, complained that the IRS was distorting the common law test used in making its employment classification.

According to testimony before the Senate Finance Committee on my proposal last year, the IRS's change of position was having a serious adverse impact on the number of small businesses.

Mr. President, the Revenue Act of 1978 has temporarily solved the controversy. However, I have found that the IRS is dragging its feet on implementing the provisions of the tax bill. The Senator from Kansas would hope that the IRS would recognize the intent of Congress and proceed to comply with the law.

Mr. President, I am introducing legislation today which is designed to bring some certainty into the employment tax area. I believe it is a good approach and welcome comments from Treasury, business, and labor.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 736

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employment Tax Act of 1979."

SEC. 2. STANDARDS.

(a) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1954 (relating to general provisions relating to the employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3508. ALTERNATIVE STANDARDS FOR DETERMINING WHETHER INDIVIDUALS ARE NOT EMPLOYEES.

"(a) GENERAL RULE.—For purposes of this subtitle other than chapter 22 and for purposes of chapter 2, and notwithstanding any other provision of chapters 21, 23, and 24 of this subtitle, if all of the requirements of subsection (b) are met with respect to service performed by any individual—

"(1) such service shall be treated as being performed by an individual who is not an employee, and

"(2) the person for whom such service is performed shall not be treated as an employer with respect to such service.

"(b) REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are met with respect to service performed by any individual if—

"(1) CONTROL OF HOURS WORKED.—The individual controls the aggregate number of hours actually worked and substantially all of the scheduling of the hours worked.

"(2) PLACE OF BUSINESS.—The individual does not maintain a principal place of business, or, if he does so, his principal place of business is not provided by the person for whom such service is performed, or, if it is so provided, the individual pays such person rent therefor. For purposes of this paragraph, the individual shall be deemed not to have a principal place of business if he does not perform substantially all the service at a single fixed location.

"(3) INVESTMENT OR INCOME FLUCTUATION.

"(A) The individual has a substantial investment in assets used in connection with the performance of the service, or

"(B) The individual risks income fluctuations because his remuneration with respect to such service is directly related to sales or other output rather than to the number of hours actually worked.

"(4) WRITTEN CONTRACT AND NOTICE OF TAX RESPONSIBILITIES.—

"(A) The individual performs the service pursuant to a written contract between the individual and the person for whom such service is performed—

"(i) which was entered into before the performance of the service, and

"(ii) which provides that the individual will not be treated as an employee with respect to such service for purpose of the Federal Insurance Contributions Act, the Social Security Act, the Federal Unemployment Tax Act, and income tax withholding at source; and

"(B) The individual is provided written notice, in such contract or at the time such contract is executed, of his responsibility with respect to the payment of self-employment and Federal income taxes.

"(5) FILING OF REQUIRED RETURNS.—The person for whom such service is performed files any information returns required in respect of such service under section 6041(a).

"(c) SPECIAL RULES.—

"(1) SECTION NOT TO APPLY TO CERTAIN INDIVIDUALS FOR PURPOSES OF SOCIAL SECURITY TAXES.—For purposes of chapters 2 and 21, this section shall not apply to an individual described in section 3121(d)(3) (relating to certain agent-drivers, commission-drivers, full-time insurance salemen, home workers, and traveling or city salesmen).

"(2) SPECIAL RULE FOR CONTRACTS ENTERED INTO BEFORE 1981.—With respect to contracts entered into before January 1, 1981, subparagraph (b)(4) of this section shall be deemed to be satisfied if such contract clearly indicates that the individual is not an employee (either by specifying that the individual is an independent contractor or otherwise), provided that the notice required by subparagraph (b)(4)(B) is given before January 1, 1981."

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3508. Alternative standards for determining whether individuals are not employees."

* * * * *

SEC. 3. SECIAL SECURITY COVERAGE.

Section 210(a) of the Social Security Act is amended by striking out "or" at the end of paragraph (19), by striking out the period at the end of paragraph (20) and by inserting in lieu thereof "; or", and by adding after paragraph (20) the following new paragraph:

"(21) Service which, under section 3508 of the Internal Revenue Code of 1954, is treated as being performed by an individual who is not an employee."

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to service performed after December 31, 1979.●

By Mr. STEVENSON (for himself and Mr. HEINZ):

S. 737. A bill to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the right to engage in commerce; to the Committee on Banking, Housing, and Urban Affairs.

EXPORT ADMINISTRATION ACT OF 1979

● Mr. STEVENSON. Mr. President, U.S. citizens have a right to engage in international as well as domestic commerce

unfettered by Government restriction unless the Nation's vital interests are affected. Present controls on U.S. exports are more stringent than is consistent with the rights of citizens, the national interest, or commonsense.

Despite the growing trade deficit, new export controls have been adopted with insufficient consideration of their cost and effect. The United States is in danger of acquiring a reputation as an unreliable supplier, a reputation it can ill-afford in an increasingly competitive world. There are few products or technologies for which the United States is any longer a unique source of supply.

Mr. President, the United States is the only nation—in this century at least—which regards its exports as a privilege to be bestowed only upon the worthiest of foreigners. Other nations see clearly the increased production and jobs exports yield. We too frequently succumb instead to seductive notions of "leverage" or theological calls to purification through self-denial.

We must have more to offer a needy world than our own moral superiority. Ill-conceived efforts to pressure other nations through refusals to export deprive the United States of influence as well as sales.

Mr. President, the bill I am introducing today on behalf of Senator HEINZ and myself would establish an export control policy which protects vital security and foreign policy interests without unnecessarily restricting U.S. exports. It would reduce the number of controlled items and focus national security controls on technologies and related products critical to military systems. It would set criteria which the President must consider before imposing export controls for foreign policy purposes. It would reduce paperwork by establishing licenses under which multiple shipments could be made to a specified purchaser for a stated end-use. It would expedite interagency review by requiring agreement in writing on types and categories of applications requiring interagency referral and setting a 30-day deadline for returning comments to the Commerce Department. It would insure final decisions on all applications within a maximum of 180 days, by requiring that applications either be decided within a specified period or referred to a higher level, if necessary, to the President.

This legislation assigns clear responsibility for assessing the foreign availability of goods and technology subject to U.S. export controls. A recent report by the General Accounting Office notes that no one in the executive branch is given responsibility to determine whether products or technology are freely available to controlled countries from our foreign competitors. Each agency makes its own assessment, leading to needless duplication of effort and delays in license reviews.

The GAO recommended that foreign availability be assessed by a single office drawing as necessary on expertise and information from other Federal agencies. Our bill requires establishment of an Office of Foreign Product and Technology Assessment in the Department of Commerce. This office could call upon any Federal agency for assistance in assessing foreign availability, and would also receive information from the business sector. Centralizing responsibility for foreign availability assessments should yield substantial savings in administrative expense and license processing time.

Reform of the administration of export controls, as provided in this bill, will increase U.S. exports by reducing licensing delays, but the fundamental issue is: what should be controlled for what purposes? Controls have been proliferating while exports stagnated.

Our bill mandates annual review of export controls and requires consideration of foreign availability—which applies at present only to national security controls. Before imposing new controls for foreign policy reasons the President would also have to consider such factors as the effectiveness of the controls, the economic costs, the reaction of other countries, and alternative ways to further U.S. foreign policy. The President would be required to report his conclusions to the Congress and the public. These requirements may not curb the tendency toward capricious, reflexive use of controls, but they would afford a chance, at least, to stop and think before limiting U.S. exports.

Controls on exports for national security purposes also need streamlining. The Department of Defense has underway an effort to define technologies and products critical to military systems. The "critical technology approach"—once fully implemented—should yield more effective control over the transfer of truly critical technologies while reducing controls on many products and noncritical technologies presently subject to validated license requirements. As the Bucy report suggested in 1976, controls focused on critical technology can serve both national security and exports more effectively. Our bill requires implementation of the critical technology approach.

This legislation constitutes the most extensive revision of U.S. export control policy since 1969. Accordingly, we have designated the bill the Export Administration Act of 1979.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

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

SECTION-BY-SECTION-ANALYSIS

SHORT TITLE

Section 1 provides that the Act may be cited as the "Export Administration Act of 1979" (replaces Export Administration Act of 1969, as amended).

FINDINGS

Section 2 contains all "findings" from section 2 of present Act and adds findings emphasizing the right of U.S. citizens to engage in trade and the contribution of exports to the U.S. trade balance, employment and production.

DECLARATION OF POLICY

Section 3(1) declares U.S. policy to be to minimize uncertainties in export policy and encourage trade as a right not a privilege except with countries with which the President has determined trade to be against the national interest (revises section 3(1) of the present Act).

Section 3(2) declares U.S. policy to be to restrict the right to export only after full consideration of the economic impact in the U.S. and only to the extent necessary to protect the domestic economy in short supply situations, to further significantly U.S. foreign policy, and to prevent exports which could hurt U.S. national security by making a significant contribution to the military potential of certain nations (revises section 3(2) of the present Act).

Section 3(3), concerning multilateral export control policy is identical to section 3(3) of the present Act.

Section 3(4) contains a general policy statement identical to section 3(4) of the present Act.

Section 3(5), concerning antiboycott policy, is identical to section 3(5) of the present Act.

Section 3(6), concerning business-government consultations on export policy, is similar to section 3(6) of the present Act.

Section 3(7), concerning the use of export controls in response to foreign restrictions on U.S. access to supplies, is identical to section 3(7) of the present Act.

Section 3(8), concerning the use of export controls to counter international terrorism, is identical to section 3(8) of the present Act.

AUTHORITY

Section 4(a)(1) authorizes the President to control exports as necessary to carry out the policies stated in section 3 and, when applying controls for short supply reasons, to allocate export licenses on the basis of factors other than prior export history. This provision is essentially the same as section 4(b)(2)(A) of the present Act.

Section 4(a)(2)(A) requires that export control policy toward individual countries take into account certain factors in addition to the existence of Communist rule, and requires the President to review such policy at least annually and to include the results in reports to Congress required by the Act. This provision is essentially the same as section 4(b)(2)(A) of the present Act.

Section 4(a)(2)(B) authorizes controls on exports which would make a significant contributfon to the military potential of any nation which threatens U.S. national security, as determined by the President, and requires controls to be focused on preventing the effective transfer to controlled countries of goods and technology critical to the design, development, or production of military systems. The Secretary of Commerce, in consultation with the Secretary of Defense, is required to review such controls at least annually in order to limit controls as much as possible consistent with the purposes of the Act, to such militarily critical goods and technologies. Actions taken pursuant to this paragraph are to be reported to the Congress annually. This paragraph revises substantially section 4(b)(2)(B) of the present Act.

Section 4(a)(2)(C) and (D) lists factors which the President must consider prior to increasing controls on exports for foreign policy purposes, and requires the President to report his conclusions to Congress and the public when imposing such controls and to indicate how U.S. foreign policy will be furthered significantly or declared international obligations fulfilled. The present Act contains no corresponding provision.

Section 4(a)(2)(E) prevents the President from imposing export controls for national security or foreign policy purposes when foreign availability exists, unless he determines there is sufficient evidence to demonstrate that the absence or such controls would be detrimental to U.S. national security of foreign policy. In the latter case the President

is directed to negotiate with foreign governments to eleminate such availability. This provision is the same as section 4(b)(2)(C) of the present Act, except that consideration of foreign availability is required for controls imposed for foreign policy reasons as well as those imposed for national security purposes.

Section 4(b) requires the Secretary of Commerce to reorganize the Department of Commerce as necessary to carry out the policy set forth in the Act, to maintain export control lists, to review such lists at least annually and include in each review an assessment of foreign availability of controlled items. The Secretary is directed to establish an Office of Product and Technology Assessment to monitor foreign availability. The Secretary is further directed to keep the public fully apprised of changes in export control policy and procedures and to consult the business sector on such policy and on foreign availability. This section substantially revises section 4(a) of the present Act.

Section 4(c)(1) and (2) establishes three types of export licenses: validated, qualified general and general—and provides that validated licenses are to be used principally for exports of goods and technology under multilateral (COCOM) control qualified general licenses for multiple shipments of exports subject to unilateral U.S. control, and general licenses for other exports. There are no comparable provisions in the present Act.

Section 4(c)(3) requires the Secretary of Commerce to establish conditions and procedures for the use of qualified general licenses within 60 days from enactment. There is no comparable provision in the present Act.

Section 4(c)(3) states the intent of Congress that all license applications be decided within 90 days, unless the Secretary of Commerce determines additional time is needed and so notifies the applicant. Such applications must be referred to the Export Administration Board. No comparable provisions exist in the present Act.

Section 4(c)(5) requires that the applicant be informed of specific objections to approval of the application and given an opportunity to respond, and that a similar procedure be followed before referring an application to another agency for review. This provision is essentially the same as section 4(g)(2)(A) of the present Act.

Section 4(c)(6) requires that the applicant be informed of the specific statutory basis for any export license denial, and that the Secretary of Commerce establish an appeals process. This provision revises section 4(g)(3) of the present Act.

Section 4(c)(7) establishes an Export Administration Board composed of voting representatives from the Departments of Commerce, State and Defense. Applications not decided within 30 days or appealed by any voting member of the Board shall be reviewed by an Export Administration Review Council composed of the Secretaries of Commerce, State and Defense. Applications shall go to the President for review if not decided within 30 days or if the Council's decision is appealed by one of the Secretaries. The President also has 30 days to decide, and if no decision is made within 180 days of the initial filing of the application the license shall be issued, unless the applicant permits the Government more time to review the application. No comparable provisions appear in the present Act.

Section 4(d) provides for review by the Secretary of Defense of such types and categories of exports controlled for national security purposes as he and the Secretary of Commerce agree in writing should be so reviewed, and requires the Secretary of Defense to review each such application carefully and recommended to the Secretary of Commerce within 30 days that such application be denied, approved or approved with conditions. If the Secretary of Commerce does not accept the recommendation, the Secretary of Defense may insist that the case be referred to the Export Administration Review Board. This provision revises section 4(h) of the present Act.

Section 4(e) provides for review by the Secretary of State of such types and categories of exports controlled for foreign policy purposes as he and the Secretary of Commerce agree in writing should be so reviewed, and requires the Secretary of State to review each such application carefully and recommend to the Secretary of Commerce within 30 days that such application be denied, approved, or approved with conditions. If the Secretary of Commerce does not accept the recommendation, the Secretary of State may insist that the case be referred to the Export Administration Review Board. There is no corresponding provision in the present Act.

Section 4(f) requires any agency, department, or official authorized to review export license applications required by this Act to confirm in writing with the Secretary of Commerce the types and categories of applications to be reviewed, and to submit views on each application with 30 days of receipt. The present Act contains no comparable provision.

Section 4(g) requires the Secretary of Commerce to monitor exports for short supply reasons when such exports contribute, or may contribute, to increased domestic prices or shortages and have serious adverse impact on the economy or any sector thereof. Weekly or monthly reports on such monitoring are also required. These provisions are identical to section 4(c) of the present Act.

Section 4(h) concerning license fees is identical to section 4(i) of the present Act.

Section 4(i), containing restrictions on exports or swaps of U.S.-produced crude oil, is identical to section 4(l) of the present Act, except that the President's decision to export such crude may be overturned by a concurrent resolution adopted within 30 days rather than by the action of one house acting within 60 days.

Section 4(j) excludes certain refined petroleum products from short supply restrictions except as limited by regulation issued by the Secretary of Commerce. This provision is identical to section 4(j) of the present Act.

Section 4(k) requires that the approval of the Secretary of Agriculture be obtained before controls may be imposed on the export of agricultural commodities and provides for consideration by the Secretary of domestic requirements for such commodities and of the use of the Commodity Credit Corporation as a foreign sales agent for such commodities before approving export controls. The section also provides for commodities temporarily stored in the United States to be exempted from export controls. This section revises section 4(f) of the present Act.

Section 4(l) provides that authority to export is not required by this Act, or rules or regulations issued pursuant to the Act, except where the President has so required in order to effect the policies of the Act. This provision is identical to section 4(d) of the present Act.

Section 4(m) authorizes the President to delegate authority under the Act to such departments, agencies, or officials as he chooses, unless the head of the department or agency in question has not been appointed by and with the advice and consent of the Senate. This section is the same as section 4(e) of the present Act, except for the provision concerning Senate confirmation of the heads of agencies or departments whose officials exercise authority under the Act.

FOREIGN BOYCOTTS

Section 5 contains provisions concerning foreign boycotts and is identical to section 4A of the present Act.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

Section 6, concerning hardship relief from export controls for short supply purposes, is identical to section 4B of the present Act.

CONSULTATION AND STANDARDS

Section 7(a), concerning interagency consultations on export control policy, is identical to section 5(a) of the present Act, except that the requirement that the Secretary of Commerce consult with the Secretary of Energy on monitoring of certain energy equipment exports is limited to short supply situations.

Section 7(b) concerning private competition and exports is identical to section 5(b) of the present Act.

Section 7(c) concerning formation and duties of technical advisory committees is identical to section 5(c) of the present Act, except for an additional paragraph, section 7(c)(6), which requires the Secretary of Commerce to verify foreign availability whenever advised of such availability by a technical advisory committee, and to take appropriate action concerning export controls on such items.

VIOLATIONS

Section 8, concerning penalties for violation of the Act is identical to section 6 of the present Act.

ENFORCEMENT

Section 9 concerning enforcement of the Act is identical to section 7 of the present Act, except that subsection 9(c) contains an express exemption of confidential information from the Freedom of Information Act and provides that information shall be available to Congressional committees with appropriate jurisdiction no matter when such information was obtained.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Section 10 provides that exemption applies only where the Secretary of Commerce has issued regulations prescribing cases where applicability of administrative procedure and judicial review would be inconsistent with the purposes of this Act. This provision revises section 8 of the present Act.

ANNUAL REPORT

Section 11 is identical to section 10 of the present Act except that the report is to be annual rather than semi-annual.

DEFINITIONS

Section 12 contains the definitions of "person" and "United States person" included in section 11 of the present Act, and adds definitions of "goods" and "technology".

EFFECTS ON OTHER ACTS

Section 13 is identical to section 12 of the present Act.

AUTHORIZATION OF APPROPRIATIONS

Section 14(a) requires annual authorization of appropriations to the Commerce Department to cover the expenses of administering the Act. The provision corresponds to section 13(a) of the present Act.

Section 14(b) authorizes appropriation of $8 million to the Commerce Department for fiscal year 1980, of which $1,250,000 is to be used solely to support the Office of Foreign Product and Technology Assessment.

EFFECTIVE DATE

Section 15 provides that this Act will take effect upon expiration of the present Act, and preserves all actions taken under predecessor Acts.

TERMINATION DATE

Section 16 provides for termination of authority granted under this Act on September 30, 1983, or an earlier date if designated by the President.●

● Mr. HEINZ. Mr. President, today I am proud to join with my esteemed colleague, the chairman of the Subcommittee on International Finance, ADLAI STEVENSON, to introduce the Export Administration Act of 1979, the purpose of which is to streamline and make more responsive the Nation's export control policy.

At the hearings which have been held on export controls during this Congress and the previous one, I heard almost unanimous condemnation by exporters and expert witnesses of our Nation's export control process. An overwhelming body of evidence was adduced to demonstrate that current export control policy is inconsistent, plagued by uncertainty and vagueness, indeed threatening to undermine our reputation as a reliable supplier in the world marketplace. The administration's response to those accusations was weak and unconvincing.

Mr. President, the current condition of our export control policy is intolerable. It seriously undermines the President's announced goal of strengthening our Nation's trade and foreign exchange position in the world arena. We simply have to recognize that we are no longer the preeminent trading nation in a sellers' market. We can be justly proud of our Nation's effort since World War II to build up the economies of our former enemies and our major trading partners. But the result has been to place us in a highly competitive international trading arena, where markets that we forgo or lose through inadvertence may never be regained.

Our Nation's Governors have recognized this fact, perhaps more vividly than the administration. Whereas the executive branch has yet to come forward with any plan to overhaul the Export Administration Act, the Governors have presented a very comprehensive set of suggestions, many of which have been incorporated into this bill. The National Governors' Association has recognized a fact which the administration seems yet to fully comprehend: that our Nation's edge in high technology (as well as agriculutre and other industrial goods) is a precious resource for jobs and capital growth which we must aggressively promote in foreign markets. Each time a license is denied for insufficient cause, or delayed to the point where customers are discouraged and begin to look elsewhere, that precious resource is squandered. Worse still, there is a multiplier effect, in which potential exporters lose their enthusiasm for the process and potential importers of U.S. goods decide that they had better turn to other, more reliable sources for their needs, in some cases despite the U.S. edge in quality or technology.

Mr. President, we are ill-served by the current system which causes seemingly endless delays and uncertainty on licenses before granting them. The bill which I am sponsoring today would go a long way toward remedying that situation.

It creates a three-tiered appeals process and a new class of export license which together should work to weed out and expedite routine cases early in the process, while at the same time insuring that major issues of national importance get attention they deserve at the Secretarial or Presidential level.

It certainly would not be in our interest to replace the current system with a process which permits only cursory consideration of the export of technology which might eventually undermine our world market position or national security. This bill has safeguards against that danger. The 6-month deadline for the resolution of licensing disputes does not put on premium on haste, but it does insure that no bureaucrat will be able to kill a project by merely pigeonholing it.

Mr. President, the promotion of human rights is a goal I strongly support. This bill provides the President with sufficient latitude to impose export controls for foreign policy purposes, but it does require a greater rigor in the argumentation used to justify those controls and a more extensive reporting procedure after those controls have been instituted. As the General Accounting Office noted in its recent report, there has been a proliferation of the use of export controls for foreign policy purposes, but little or no discussion of that use in reports to Congress. Hopefully, the new rigor required will cause the administration to pause and seriously consider whether export controls are really the best way to achieve the desired end. How much leverage do we have? In an age of technological diffusion, how much success are we likely to have in convincing our industrialized allies—whose cooperation is critical—that the promotion of human rights is a goal worthy of financial sacrifice? It would seem that these important questions have not always been given sufficient weight in past deliberations.

The message I have received from exporters is that they are not asking for a removal of restraint. Rather, what they want—and what this bill provides—is a streamlined and predictable export control policy, which can be used as a reliable guide to marketing and long-term commitments. I urge all of my colleagues to give the bill careful consideration and support.●

By Mr. MELCHER (for himself, Mr. BAUCUS, Mr. BURDICK, Mr. DOLE, Mr. EXON, Mr. MCGOVERN, Mr. PRESSLER, Mr. TOWER, Mr. WALLOP, Mr. YOUNG, and Mr. ZORINSKY):

S. 738. A bill to amend section 16(b) of the Soil Conservation and Domestic Allotment Act, as amended, providing for a Great Plains conservation program; to the Committee on Agriculture, Nutrition, and Forestry.

REAUTHORIZATION OF THE GREAT PLAINS CONSERVATION PROGRAM

● Mr. MELCHER. Mr. President, today I am introducing S. 738, a bill to reauthorize the Great Plains conservation program.

The Great Plains conservation program funds Soil Conservation Service activities authorized under section 16(b) of the Soil Conservation and Domestic Act (Public Law 74–46) as amended by Public Law 84–1021. Public Law 91–118 amends Public Law 81–1021 to extend the Great Plains cost share contracting authority to December 31, 1981. The purpose of the bill I am introducing today, with 10 other Senators, is to reauthorize the program until 1986, and to increase the authorization from $25 to $50 million.

It is important to note that it is the intent of the administration to abolish the Great Plains conservation program. One of the purposes of this bill is to serve notice that the Congress will not go along with such a decision.

In 1972, the Congress enacted the Rural Development Act, which provided for the Great Plains conservation program to be operated in every county in the Nation. Unfortunately, no administration has been willing to put the law into action. But that is a permanent authority that is on the books, and I suppose that if someone wanted to go to court with the matter, it would not be necessary for me to be introducing this bill today.

During the last Congress, the Senate again reaffirmed its faith in this program by passing a bill by my distinguished colleague from California (Mr. HAYAKAWA) to extend the program to all counties west of the Mississippi River. That bill was passed, because of the recognition of the value the program could be in counties stricken by drought.

Again during the last session of Congress, the Senate passed a bill by my distinguished colleague from South Dakota, (Mr. MCGOVERN) to make the program permanent.

Clearly, the Congress has shown that it believes this program is a major contributor to the protection and enhancement of our Nation's soil and water resources.

The Great Plains conservation program is designed to assist farmers and ranchers in planning and applying resource management systems on their farms and ranches to prevent or reduce the effects of climatic hazards. Benefits to be achieved are protection or improvement of soil, water, plant, and wildlife resources, through reduction of erosion and sedimentation, abatement of agriculture-related pollution, and thereby keep stable local economies dependent on the productivity of land and water resources.

Activities under the program include:

COST SHARING ASSISTANCE

Payments are made to program participants for a share of the cost of installing eligible conservation practices scheduled in contracts.

COST-SHARE PROGRAMING AND CONTRACT ADMINISTRATION

The Soil Conservation Service provides assistance in developing contracts which include schedules of conservation measures to be applied, and administers

tions of the Department of the Treasury for fiscal years 1980 and 1981; to the Committee on Banking, Housing, and Urban Affairs.

Mr. PROXMIRE. Mr. President, at the of the administration, I introduce for appropriate reference a bill to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal years 1980 and 1981.

By Mr. PROXMIRE (by request):

S. 977. A bill to amend the Export Administration Act of 1969, as amended, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. PROXMIRE. Mr. President, I introduce, by request, for appropriate reference, the administration's bill to revise and extend the Export Administration Act of 1969, as amended. The Committee on Banking, Housing, and Urban Affairs, which has jurisdiction over export controls, will mark up legislation on this subject at 10 a.m. on Monday, May 7, in room 5302 of the Dirksen Senate Office Building.

Mr. President, I ask unanimous consent that the bill and the accompanying statement of purpose and need submitted by the administration be printed in the RECORD.

There being no objection, the bill and statement were ordered to be printed in the RECORD, as follows:

S. 977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401), is further amended by:

(a) revising subsection (2) to read as follows:

"The export of goods or technology without regard to whether it makes a significant contribution to the military potential of individual countries or combinations of countries may adversely affect the national security of the United States.";

(b) revising subsection (3) to read as follows:

"The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries."; and

(c) adding at the end thereof the following two new subsections:

"(6) Exports are important to the economic well-being of the United States.

(7) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of technology (and goods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to the national security of the United States.".

SEC. 2. Section 3 of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2402) is further amended by:

(a) revising subsection (2) to read as follows:

"It is the policy of the United States to use export controls to the extent necessary to restrict the export of (A) goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the national security of the United States; (B) goods and technology where necessary to further significantly the foreign policy of the United States or to fulfill its international responsibilities; and (C) goods where necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.";

(b) deleting in subsection (5) "articles, materials, supplies, or information" and inserting in lieu thereof, "goods, technical data or other information";

(c) deleting in subsection (6) "articles, materials, or supplies, including technical data or other information," and inserting in lieu thereof, "goods, technical data or other information"; and

(d) adding at the end thereof the following new subsection:

"(9) It is the policy of the United States to cooperate with other nations with which the United States has defense treaty commitments in restricting the export of goods and technical data which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States and of those countries with which the United States has defense treaty commitments.".

SEC. 3. Section 4 of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2403), is further amended by:

(a) deleting "nations with which the United States is engaged in trade" in subsection (a), paragraph (1), and inserting in lieu thereof "countries with which the United States has diplomatic or trading relations";

(b) deleting "articles, materials, or supplies, including technical data or other information," in subsection (a), paragraph (1), and inserting in lieu thereof "goods and technical data";

(c) deleting the last sentence of subsection (a), paragraph (1);

(d) revising subsection (b), paragraph (1) to read as follows:

"To the extent necessary to carry out the policies set forth in section 3 of this Act, the President, by rule or regulation, may prohibit or curtail the export of any goods, technology, or any other information subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. To the extent necessary to achieve effective enforcement of this Act, these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person. In curtailing exports to carry out the policy set forth in section 3(2)(C) of this Act, the President is authorized and directed to allocate a portion of export licenses on the basis of factors other than a prior history of exportation.";

(e) deleting "C" in subparagraph (A), paragraph (2), subsection (b), and inserting in lieu thereof "A," and by deleting the last sentence of that subparagraph;

(f) Deleting "articles, materials, or supplies, including technical data or other information" in subparagraph (B), paragraph (2), subsection (b) and inserting in lieu thereof "goods, technical data or any other information," and adding the following sentence at the end of that subparagraph: "In administering export controls for foreign policy purposes, weight will be given to whether the goods or technology in question are also available from countries other than the United States.";

(g) deleting "(A)" in paragraph (1), subsection (c), and inserting in lieu thereof "(C)";

(h) deleting "(C)" in paragraph (1), subsection (f), and inserting in lieu thereof "(A)";

(i) deleting "(A)" in paragraph (3), subsection (f), and inserting in lieu thereof "(C)";

(j) inserting after the words "national security" in the first sentence of subparagraph (A), paragraph (2), subsection (g), the words "and foreign policy";

(k) deleting "(A)" as it appears in subsection (i) and inserting in lieu thereof "(C)";

(l) relettering that subsection (m) which begins with the words, "No article, material, or supply," as subsection (n);

(m) deleting "article, material, or supply, including technical data or other information," in relettered subsection (n) and inserting in lieu thereof "goods, technical data or any other information,"; and

(n) adding at the end thereof the following two new subsections:

"(o)(1) Any United States firm, enterprise, or other non-Governmental entity which, for commercial purposes, enters into an agreement with an agency of a government in another country to which exports are restricted for national security purposes, which agreement cites an inter-governmental agreement calling for the encouragement of technical cooperation and is intended to result in the export from the United States to the other party of unpublished technical data of United State origin, shall report such agreement to the Secretary of Commerce.

(2) The provisions of this subsection shall not apply to colleges, universities, or other educational institutions.

(3) The Secretary of Commerce is authorized to issue such rules and regulations as are necessary to implement the provisions of this subsection.

(p) The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for negotiations with other countries regarding their cooperation in restricting the export of goods and technologies whose export should be restricted pursuant to Section 3(9) of this Act, as authorized under Section 4(b)(1) of this Act, including negotiations on the basis of approved Administration positions as to which goods and technologies should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.".

SEC. 4. Section 5 of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2404), is further amended by:

(a) deleting "Federal Energy Administration" in subsection (a) and inserting in lieu thereof "Department of Energy";

(b) deleting "article, material, or supply" in paragraph (2), subsection (b) and inserting in lieu thereof "goods";

(c) deleting "(A)" in paragraph (2), subsection (b) and inserting in lieu thereof "(C)";

(d) deleting "articles, materials, and supplies, including technical data and other information" each time it appears in paragraph (1), subsection (c) and inserting in lieu thereof "goods and technical data";

(e) deleting from paragraph (2), subsection (c) "articles, materials, and supplies, including technical data or other information" and inserting in lieu thereof, "goods and technical data";

(f) deleting the following sentence from paragraph (2) subsection (c):

"The Secretary shall include in each semiannual report required by section 10 of this Act an accounting of the consultation undertaken pursuant to this paragraph, the use

made of the advice rendered by the technical advisory committees pursuant to this paragraph, and the contributions of the technical advisory committees in carrying out the policies of this Act."; and

(g) deleting from paragraph (5), subsection (c), "articles, materials, and supplies" and inserting in lieu thereof "goods and technical data".

SEC. 5. Section 6 of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2405) is further amended by:

(a) revising subsection (a) to read as follows:

"Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.";

(b) revising subsection (b) to read as follows:

"Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or $100,000, whichever is greater, or imprisoned not more than ten years, or both."; and

(c) deleting "articles, materials, supplies, or technical data or other information" from subparagraph (A), paragraph (2), subsection (c) and inserting in lieu thereof, "goods, technical data or any other information".

SEC. 6. Section 7 of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2406) is further amended by:

(a) revising subsection (c) to read as follows:

"Except as otherwise provided by the third sentence of Section 4A(b)(2) and by section 6(c)(2)(C) of this Act, information obtained under this Act which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information shall be exempt from disclosure under 5 U.S.C. 552(b)(3)(B), and such information shall not be published or disclosed unless the Secretary of Commerce determines that the withholding thereof is contrary to the national interest. Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under Section 4(b), shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.";

(b) deleting the last sentence of subsection (d); and

(c) deleting subsection (e).

SEC. 7. Section 9 of the Export Administration Act of 1967, as amended (50 U.S.C. App. 2408), is repealed.

SEC. 8. Section 10 of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2409) is revised to read as follows:

"REPORT

SEC. 9. (a) The Secretary of Commerce shall make an annual report to the President and to the Congress on the implementation of this Act.

(b) Each annual report shall include an accounting of—

(1) actions taken by the President and the Secretary of Commerce to effect the antiboycott policies set forth in section 3(5) of this Act;

(2) organizational and procedural changes instituted and any reviews undertaken in furtherance of the policies set forth in this Act;

(3) efforts to keep the business sector of the Nation informed about policies and procedures adopted under this Act;

(4) any changes in the exercise of the authorities of section 4(b) of this Act;

(5) the results of review of United States policy toward individual countries called for in section 4(b)(2)(A);

(6) evidence demonstrating a need to impose export controls for national security purposes in the face of foreign availability as set forth in section.

(7) the information contained in the reports required by section 4(c)(2) of this Act, together with an analysis of:

(A) the impact on the economy and world trade of shortages or increased prices for commodities subject to monitoring under this Act or section 812 of the Agricultural Act of 1970;

(B) the worldwide supply of such commodities; and

(C) actions being taken by other nations in response to such shortages or increased prices;

(8) delegations of authority by the President as provided for under section 4(e) of this Act;

(9) the number and disposition of export license applications taking more than 90 days to process pursuant to section 4(g) of this Act;

(10) consultations undertaken with technical advisory committees pursuant to section 5(c) of this Act, the use made of advice given, and the contributions such committees made in carrying out the policies of this Act;

(11) violations of the provisions of this Act and penalties imposed pursuant to this Act; and

(12) any revisions to reporting requirements prescribed in section 7(d).

(c) The heads of other involved departments and agencies shall fully cooperate with the Secretary of Commerce in providing all information required by the Secretary of Commerce to complete the annual reports.".

SEC. 9. Section 11 of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2410), as renumbered as Sec. 10.

SEC. 10. Section 12 of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2411) is amended by:

(a) renumbering it as Sec. 11; and

(b) deleting "section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934)." in subsection (b) and inserting in lieu thereof "section 38 of the Arms Export Control Act (22 U.S.C. 2778).".

SEC. 11. Section 13 of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2411a) is further amended by:

(a) renumbering it as Sec. 12;

(b) revising subsection (a) to read as follows:

"(a) For fiscal years commencing on or after October 1, 1979, there are hereby authorized to be appropriated to the Department of Commerce such sums as may be necessary to carry out the purposes of this Act."; and

(c) adding at the end thereof the following new subsection:

"(c) For fiscal years commencing on or after October 1, 1979, there are hereby authorized to be appropriated to the Department of State such sums as may be necessary to implement the provisions of Sections 3(9) and 4(p) of this Act.".

SEC. 12. Section 15 of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2413), is further amended by deleting "1979" and inserting in lieu thereof "1983".

SEC. 13. Sections 14 and 15 of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2412 and 2413), are renumbered as Sec. 13 and Sec. 14 respectively.

SEC. 14. As of October 1, 1979, the Mutual Defense Assistance Control Act of 1951, as amended (22 U.S.C. 1611–1613d), is superseded.

STATEMENT OF PURPOSE AND NEED

Section 1. This section amends section 2 (Congressional Findings) of the Export Administration Act, as amended ("the Act") to emphasize two important concerns about United States export control policy: (1) the need to give explicit recognition to the importance of exports to the economic well-being of the United States and (2) the need to emphasize control of (i) certain technologies which could make a significant contribution to the military capability of potential adversaries and (ii) corresponding products that could contribute significantly to the transfer of such technologies.

The President's announcement of the National Export Policy (NEXPO) stressed the need to promote and increase exports in order to strengthen the trade and monetary position of the United States. There is growing concern in numerous quarters that export control policy places too much emphasis on restraining rather than promoting exports.

Two provisions (a revision in the wording of subsection (3) and the addition of a new subsection (6)) are designed to sharpen the Act's emphasis on the need to promote and expand exports. They would give recognition to the fact that export restrictions may adversely affect our domestic employment as well as our balance of payments and give explicit recognition to the role that exports play in America's economic well-being.

Another provision (a new subsection (7)) makes explicit the philosophy which governs United States national security export controls, viz., that the export of technologies having significant military applications and the export of products which could contribute significantly to the transfer of such technologies should be closely controlled. The purpose of articulating this philosophy in the Act is to make it clear that export controls imposed for national security purposes should emphasize the control of technologies which could contribute significantly to a potential adversary's military potential as well as products which contribute significantly to the transfer of such technologies.

Other changes are offered to eliminate redundancy and to clarify the provisions of Section 2 of the Act.

Section 2. This section amends section 3 (Declaration of Policy) of the Act to (1) reorder more logically in subsection (2) the three purposes for export controls (i.e., national security, foreign policy and short supply) and (2) incorporate in a new subsection (9) the basic authority contained in the Mutual Defense Assistance Control Act of 1951 (the "Battle Act") for United States participation in the multilateral organization known as COCOM with such revisions as are necessary to bring that authority up to date. (COCOM is the organization in which the national export controls of the NATO countries, excluding Iceland, plus Japan, are coordinated.) The other provisions of the Battle Act are now obsolete. Those provisions pertaining to United States participation in COCOM remain relevant and necessary and are incorporated as new subsections 3(9) and 4(p) in the Act.

Other changes are offered to eliminate

redundancy and to clarify and streamline the provisions of section 3 of the Act.

Section 3. This section amends section 4 (Authority) of the Act to (1) emphasize that weight is to be given to the existence of foreign availability in administering export controls for foreign policy purposes; (2) expand the Act's existing protection of the confidentiality of information pertaining to national security to cover information pertaining to foreign policy as well; (3) require that certain commercial agreements which are intended to result in the export of unpublished technical data of United States origin to countries to which exports are restricted for national security purposes be reported to the Secretary of Commerce; and (4) incorporate into the Act authority now in the Battle Act for the Secretary of State to continue to act as the administrator for United States participation in COCOM.

At present the United States imposes some controls for foreign policy purposes on goods which may be readily available from suppliers in other countries. This has led to complaints from the United States business community that the United States Government denies it sales without preventing the target country's acquisition of similar goods from other sources. In his National Export Policy statement of 26 September 1978, the President directed that weight be given to foreign availability in applying export controls for foreign policy purposes.

The amendment to 4(g)(2)(A) would make it clear that the Government can protect sensitive foreign policy information when supplying information to an applicant whose export license has not been acted on finally within 90 days of its receipt.

At present, the Act expressly authorizes the protection of the confidentiality of information bearing on national security only. Some information, however, might require protection for foreign policy reasons only. The amendment would make it clear that information may be withheld for such purposes.

Proposed new subsection 4(o) would require reporting to the Secretary of Commerce of commercial science and technology cooperation agreements between United States firms and organizations (except for colleges, universities, or other educational institutions) and agencies of a government in another country to which exports are restricted for national security purposes where those agreements cite an intergovernmental agreement calling for the encouragement of technical cooperation and are intended to result in the export from the United States to the other party of unpublished technical data of United States origin. This would enable the United States Government to know when, with whom and on what subjects such agreements have been concluded.

A new subsection 4(p) would incorporate authority for the Secretary of State to continue to act as the administrator for United States patricipation in COCOM. The Department of State should continue to be responsible for these functions, because they are part of State's overall responsibility for the conduct of foreign relations. This amendment is consistent with the amendments in other sections of the bill to supersede the Battle Act and incorporate its provisions pertaining to United States participation in COCOM into the Export Administration Act.

Other amendments to section 4 would clarify language, correct citations and consolidate reporting requirements.

Section 4. This section amends section 5 (Consultation and Standards) of the Act to clarify language, correct terminology and delete reporting requirements so as to consolidate them in a later section.

Section 5. This section amends section 7 (Enforcement) of the Act to (1) eliminate the differences in penalties currently prescribed in subsection (a) for first and second offenses and (2) increase the potential prison sentences and criminal fines for violations.

At present, subsection (a) provides a distinction between first and second violations of the Export Administration Act or its regulations. We believe that there is no valid reason for this distinction, and it should, therefore, be eliminated.

Moreover, we believe that potential prison sentences which may be imposed at present are insufficient to deter criminal violations and do not adequately punish offenders for violations which may be highly injurious to our national security, foreign policy, or domestic economy. The proposed bill stresses the importance of exports. Increasing potential penalties will serve to indicate that violations of the Export Administration Act are, nonetheless, a serious concern. We believe that potential jail sentences of 5 years in cases of violations not involving nations to which exports are restricted for national security or foreign policy purposes and 10 years in all other cases would accomplish these objectives.

In addition, under subsection (b), the proposed amendment would increase to $100,000 from $50,000 the maximum monetary penalty for willfully exporting anything controlled by the Act with knowledge that the export will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes. This would then be identical to the maximum monetary penalty in an analogous statute, the Arms Export Control Act, for violations of controls on exports of defense articles and services.

Section 6. This section amends section 7 (Enforcement of the Act) relating to the confidentiality provisions of subsection 7(c).

During consideration in the last Congress of bills to extend the Export Administration Act, the Department of Commerce noted that due to amendments to the Freedom of Information Act made by the Government in the Sunshine Act, it was unclear whether Section 7(c) of the Export Administration Act would continue to afford complete confidentiality for information obtained under its provisions. The Department of Commerce recommended legislation to clarify that Section 7(c) was and would continue to be a statute falling under exemption three of the Freedom of Information Act, as amended.

Congress did not enact the proposed legislation. In its report, the House Committee on International Relations indicated that it believed that section 7(c), together with the other exemptions of the Freedom of Information Act, was sufficient to protect the confidentiality of the information in question.

Since enactment of the 1977 amendments, the Commerce Department has been continuously involved in major litigation on the scope of section 7(c). In one case, the District Court for the District of Columbia held that section 7(c) was a statute falling within exemption three of the amended Freedom of Information Act. However, in another case, the Court of Appeals for the District of Columbia held that section 7(c) was not an exemption three statute under the amended Freedom of Information Act. This and three other similar cases (one involving Shipper's Export Declarations filed with the Census Bureau) are still under active consideration by the courts.

The proposed amendment would clarify the status of Section 7(c) and provide confidentiality for all information received under the Export Administration Act both prior to and subsequent to the enactment of the proposed amendment. In this regard, it should be noted that for the last 30 years exporters have provided this information to the Department on the basis of the express pledge of confidentiality contained in the Export Administration Act.

While it is true that certain exemptions in the Freedom of Information Act other than exemption three might apply to some information obtained under the Act, it is unlikely that all the sensitive information the Department of Commerce receives in administering that Act could be protected. For instance, it is unclear whether these other exemptions would protect either the names of exporters or their consignees, very sensitive pieces of trade information. Release of this information, when analyzed with other pertinent data regularly released publicly by the Department (such as a general description of the commodity, value, and country of destination of exports) would convey vital information about a company's trade and commercial position. This would damage exporters, particularly those in the process of developing overseas markets.

The problem is exacerbated by the fact that the sensitive information involved is required to be submitted by law. Thus, it is only fair to the reporting entity that the Government provide adequate statutory assurances of confidentiality concerning disclosure of the data.

Further, if the courts ultimately determine that with respect to all types of information the present Section 7(c) is not a statute falling under exemption three of the Freedom of Information Act, the Department of Commerce will be faced with a tremendous administrative burden. Each Freedom of Information Act request for information obtained under the Export Administration Act would thenceforth require Departmental employees to review each responsive document on a line-by-line basis to determine if the information could be withheld under other Freedom of Information Act exemptions. At present, Section 7(c) allows the withholding of entire documents without reviewing them on a line-by-line basis. The Department of Commerce is currently receiving approximately 77,000 export license applications a year, each of which has numerous pages of supporting documentation. If Section 7(c) were determined not to be an exemption three statute, the administrative burden would be staggering.

The proposed amendment is not intended to take information received under the Export Administration Act out of the FOIA process. Rather, it is intended to clarify that Section 7(c) retains viability under exemption three of the existing Freedom of Information Act. In fact, any other result would essentially render a nullity the action Congress took in the Export Administration Amendments of 1977 (P.L. 95-52) to amend and extend Section 7(c).

The proposed amendment would also make explicit the right of Congress to receive information obtained under the Export Administration Act prior to June 22, 1977, without the need for the Secretary of Commerce to make a "national interest" determination. Since enactment of P.L. 95-52, which amended Section 7(c) to give appropriate committees of Congress the right to receive information obtained under the Export Administration Act, several Congressional requests have been received for information submitted to the Department of Commerce prior to June 22, 1977. Because of the general rule of statutory construction that statutes are to be applied prospectively only unless they explicitly provide otherwise, the Secretary of Commerce has continued to make "national interest" determinations before providing information received prior to enactment of the 1977 amendments. This has resulted in delays in responding.

The proposed amendment would make it clear that a Secretarial determination is no longer required in order to accede to any appropriate Congressional request, provided that the other provisions in section 7(c)

regarding disclosure of information to the Congress are satisfied.

Other amendments under this section would delete reporting requirements from section 7 of the Act in order to consolidate them into a new section.

Section 7. This section would repeal section 9 (Information to Exporters) of the Act, because section 9 is redundant with section 4(g) of the Act.

Section 8. This section completely revises section 10 (Reports) of the Act in order to consolidate in a single section the numerous reporting requirements currently scattered throughout the Act.

In addition, the report of the Secretary of Commerce to the Congress on implementation of the Act would be placed on an annual rather than a semiannual basis. An annual rather than semiannual report requirement would reduce an administrative and paperwork burden while still providing Congress with ample information and opportunity to exercise properly its oversight responsibility.

Section 9. This section amends section 11 (Definitions) of the Act by renumbering it as section 10 to take into account the repeal of section 9.

Section 10. This section amends section 12 (Effects on Other Acts) to correct the citation to the Arms Export Control Act.

Section 11. This section amends section 13 (Authorization of Appropriations) of the Act to incorporate the necessary authorization for funds to implement the Act. The proposed provisions would authorize appropriations for the Departments of State and Commerce "for such sums as may be necessary for carrying out the purposes of the Act." (The inclusion of an authorization for the Department of State is necessitated by the incorporation into the Act of the Battle Act provisions relating to the United States participation in COCOM. The Department of State represents the United States in COCOM.)

The present requirement for the specification of a particular sum would be eliminated in order to obviate the need for Congress to consider budgetary requests for the export administrative program twice—once as part of an authorization process and later as part of the appropriation process.

Section 12. This section amends section 15 (Termination Date) of the Act to extend the expiration date of the Act to September 30, 1983. The Act is the basic statutory authority for controlling the export of goods and technical data. By its terms, it will expire on September 30, 1979, unless appropriately extended. Without the authority provided by the Act, many exports from the United States could take place without restriction, with potential serious detrimental effects on our national security, foreign policy and domestic economy.

Section 13. This section renumbers Sections 14 and 15 of the Act as 13 and 14, respectively, to take into account the repeal of section 9.

Section 14. This section supersedes, as of October 1, 1979, the Mutual Defense Assistance Control Act of 1951, as amended (the "Battle Act"), in accordance with the overall purpose of incorporating its relevant features into the Act. With the incorporation elsewhere in this bill of the Battle Act's provisions relating to United States participation in COCOM, the Battle Act becomes superfluous.

By Mr. LUGAR:

S. 982. A bill to amend the Food Stamp Act of 1977 to authorize the Secretary of Agriculture to make fair and equitable reductions in food stamp benefits when insufficient funding is available; to the Committee on Agriculture, Nutrition, and Forestry.

AMENDMENT OF THE 1977 FOOD STAMP ACT

● Mr. LUGAR. Mr. President, as most of my colleagues know, the 1977 Food Stamp Act completely revised the food stamp program. When this law was enacted, it was clearly the intent of Congress to retain budgetary control over the program through the use of an appropriation ceiling for each year in which the program was authorized. Congress set the appropriations ceilings for fiscal years 1979 and 1980 at $6.159 billion and $6.188 billion, respectively. These appropriation ceilings mandated by Congress are the only effective control over the costs of this program since benefits are automatically adjusted to changes in food prices and the number of eligible recipients depends on the level of unemployment.

The growth of the food stamp program has been phenomenal. It started out as an experimental program in the early 1960's with less than 500,000 participants and a cost of several million dollars. Today there are in excess of 17 million people receiving food stamps. The Office of Management and Budget estimates that in fiscal year 1980, if the appropriations ceiling of $6.188 was not in effect, food stamp outlays would exceed $6.9 billion. The Congressional Budget Office currently estimates that the cost of the program would rise above $7.5 billion in fiscal year 1980, if the ceiling was not in effect.

In recent weeks it has become apparent that the food stamp program is even in danger of exceeding the 1979 authorization ceiling of $6.159 billion. In January alone, 1.7 million people came onto the program with the elimination of the purchase requirement mandated by Congress in 1977. No one yet knows how many people have come into the program since January. While it is true that Congress anticipated some increase in the number of food stamp recipients with the elimination of the purchase requirement, the fact remains that the only effective control that Congress has over the cost of this program is the appropriation ceilings mandated by Congress.

The President has proposed the repeal of the appropriation ceilings in effect under the 1977 Food Stamp Act. This would add $720 million to $1.4 billion to the cost of the food stamp program in fiscal year 1980, depending on whether you believe the latest OMB or the CBO estimate. The fact is that no one, not even OMB or CBO, really knows what the food stamp program will cost in fiscal year 1980. Prior projections of food stamp costs provide ample evidence of that. The lifting of the appropriations ceiling would, in effect, issue a blank check to the food stamp program.

I believe that Congress must maintain control over the cost of this program. If increases in benefits or total expenditures are needed at a particular time due to changing economic conditions, then Congress can take necessary legislative action.

When the Agriculture Committee met on March 6 to discuss its recommendations to the Budget Committee for the fiscal year 1980 USDA budget, I moved to reduce the President's budget request of $6.9 billion, which assumed repeal of the ceiling, down to the fiscal year 1980 appropriation ceiling of $6.188 million. Although my motion failed, the 9-to-8 vote demonstrated substantial support for the retention of firm congressional control over the costs of the food stamp program. I will continue to oppose any attempts to lift either the fiscal year 1979 or fiscal year 1980 appropriation ceilings.

I do not, nor does any other Senator or taxpayer, wish to have the truly poor people of this country suffer unjustly because of congressional budget action on the food stamp program. I am convinced that there are changes that could be made within this program that would save substantial sums of money that could be passed on to the truly needy.

The error rate of the food stamp program is currently 12 percent, which translates into about $700 million worth of benefits issued in error. This error rate includes underissue as well as overissue of benefits which further underscores the necessity of bringing this error rate down. A recent Government Accounting Office (GAO) report charged that $500 million was lost annually due to overissuance of benefits. The error rates for the food stamp program vary greatly from State to State. This results in the taxpayers in low error rate States subsidizing taxpayers and food stamp recipients in high error rate States. USDA has proposed the issuance of penalties to States with unacceptably high error rates. This would result in a projected savings of $132 million in fiscal year 1980. I applaud USDA in these efforts, but I am inclined to believe that more can be done to cut down on the error rate.

CBO estimates that recoupment of benefits issued to temporary recipients of food stamps whose annual adjusted gross income exceeds twice the applicable poverty level would result in potential savings of between $124 and $162 million. For example, a person earning $20,000 a year that loses his job and then obtains another job at comparable pay, would be forced to pay back the value of his food stamps under a recoupment program.

Another potential method of cutting food stamp expenditures would be to reduce or eliminate the overlap of the food stamp program with other domestic food assistance programs. CBO estimates that the saving from doing this would be from $100 million to $200 million annually. Some people believe that the savings might even be substantially greater than that.

There is no doubt that a great many changes could be implemented to save money in the food stamp program. The possible changes that I have just alluded to are not originally mine. They have been discussed before and I am not advocating that they are the best avenues that could be followed in cutting expenditures so that appropriation ceilings are not exceeded. The point I am making is

are inept, all are crooks, all are lazy, all are sex maniacs is if I am so are you.

Well, such is not the case, as far as the Nation is concerned. You, me, we are decent, honest people, hardworking, and not ripping each other off.

That holds for the Senate of the United States and the House of Representatives, for those in the executive branch, the media, business, labor, whatever. I have great pride as to what it is we are all about.

I am not going to participate in demagoguery to cheapen this institution, because when that happens the end of it is not far off.

The PRESIDING OFFICER. (Mr. BRADLEY). The Senator's time has expired.

Mr. WEICKER. One more minute.

Mr. JOHNSTON. Yes.

Mr. WEICKER. I will stand up and vote for exactly what the Senator from Louisiana is proposing, because it is the best and my constituency will have pride in it.

Nobody is talking about restaurants for Senators. The public cannot eat right now. They have to eat breakfast at 10 o'clock in the morning and lunch at 3 o'clock.

Nobody is talking about luxurious facilities. The reason why the paneling is included is because it is cheaper than it is to paint the walls every year.

In the final analysis it is not just a matter of this building. It is the whole business of politics and what we stand for in this country.

We are not an entertainment for the American people and we are not forever a target of opportunity for the media of this Nation.

What we have created has been created, because we never accepted second best either as to ideas, buildings or programs.

Just because today's opposition brings a little political limelight to some of our colleagues, I am not prepared to cave in to second best.

The PRESIDING OFFICER. Who yields time?

If no one yields time——

Mr. JOHNSTON. Mr. President, how much time is left on each side?

The PRESIDING OFFICER. The Senator from Louisiana has 8½ minutes. The Senator from Rhode Island has 3 minutes and 37 seconds.

Mr. JOHNSTON. Mr. President, I think I am just about ready to yield back the remainder of my time.

The issue is quite clear, Mr. President. Our choice is not whether we should start a building from scratch and build a second Senate office building. Our choice s whether to leave a $70 million monument to nothing remaining on the landscape of the Senate, or whether to build for $142 million the space we need.

Mr. President, we have 1,700 employees now occupying facilities away from the Senate office buildings. They are substandard. In some cases they are dangerous.

We will make a tour for the press this afternoon at 3 o'clock. If any Senator wants to see those buildings or the new Senate office building this afternoon, please come. I invite them to come because it is dangerous. I think if we look at it closely, it is dangerous.

There are some people on the fourth floor of some of those buildings with a very slow elevator that cannot be used in case of fire, and no outside stairs.

That is dangerous, Mr. President, and that is what we are subjecting our Senate staff to. That, plus 65 square feet, and less, per employee when the GSA says we need 150 square feet.

The basic question is, Do we need the space? There is not any doubt about that, Mr. President. There is no doubt at all.

In 1967, 72 Senators testified to that effect and over 30 Senate committees passed resolutions to that effect.

Of course we need space. The distinguished Senator from Rhode Island said so yesterday, and I appreciated his being fair in that respect.

We do need space. This building is an answer to that space problem. It is the most stripped down, austere thing, with the exception of the 3 items, which I did not recommend, but which the Appropriations Committee recommended the addition of, 3 deductions out of some 20. Even with the restoration of those, it is still austere from a comparative basis.

It is still the most stripped down version we could have and still have full use of the office space. I hope the Senate will pass this amendment.

Mr. CHAFEE. Mr. President, we have had some interesting debate here today.

The opponents have been characterized as being idiotic. They have been characterized as being asinine. The latest characterization is that they all wish the limelight. There are some who suggest that those of us who oppose this building seek the publicity. Some people seem to have a monopoly on virtue around here, and others are on the other side.

I might say, I first opposed this building when it was a hole in the ground when there was nothing there. I was opposed to it then. I was opposed to it when the steel skeleton went up. I am opposde to it now.

Somehow, there seems to be a new virtue attached to those who are protecting the Senate, they are the ones who are on the side of right. Somehow it comes out in this topsy-turvy world, that here we are in an age of inflation, when this country is doing everything it can to fight inflation, the President imploring us, but not for us to join in it. Oh, no. The courageous ones, apparently, are those who want to spend the public's money. They are willing to stand up.

It sort of reminds me of George Orwell's "1984," the topsy-turvy world.

I remember the slogans in that, war is peace, and freedom is slavery, and ignorance is strength. Those are some of the Orwellian quotes.

Those who wanted to make this building fit for the American public, as they say, they had an opportunity in the Appropriations Committee to restore these 20 items. I did not hear anybody speak up then. I have not heard anybody on this floor seek to amend, to add these other facilities, to make it a building the American public will really be proud of. Not a word.

What we are debating here today. Mr. President, is what kind of example we are going to set for the American public. Are we willing to draw the line? Are we willing to say we will do our part and we want everybody else to do their part, too? Are we to say, "No, we are separate; we are different; we are going our own way"?

I think the issues are very clearly drawn, and I urge my colleagues to vote against this amendment.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield me a couple of minutes?

Mr. JOHNSTON. Yes.

Mr. CHAFEE. I reserve the remainder of my time.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may proceed for 2 minutes, without it being charged to either side.

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

EXPORT ADMINISTRATION ACT OF 1979—TIME AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 737, the Export Administration Act of 1979, is called up and made the pending business before the Senate, there will be a time agreement as follows thereon:

Two hours on the bill to be equally divided between Mr. STEVENS and Mr. HEINZ.

One hour, equally divided, on amendments in the first degree.

Thirty minutes, equally divided, on amendments in the second degree.

Twenty minutes, equally divided, on any debatable motion, appeal, or point of order, at the discretion of the Chair, if such is discussed by the Senate.

That the agreement be in the usual order, except that there be a total of 4 hours, equally divided between Senators STEVENS and RIEGLE, on an amendment or amendments to be offered by Mr. STEVENS on the subject of Alaskan oil. Senator STEVENS may divide the 2 hours under his control among three amendments, if he chooses to do so.

One hour on each of three amendments to be offered by Mr. HELMS on the subject of U.S. oil exports.

One hour on an amendment by Mr. MCCLURE on the subject of legislative veto on farm exports.

Mr. STEVENS. Mr. President, reserving the right to object, I know of no other amendments that have been discussed with the minority.

I believe this is a comprehensive agreement on the Export Control Administration bill, and it is acceptable from our point of view. I do not object.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader and all Senators who have cooperated in securing this agreement.

The text of the agreement follows:

Ordered, That when the Senate proceeds

to the consideration of S. 737 (Order No. 181), a bill to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the right to engage in commerce, debate on any amendment in the first degree (except on an amendment or amendments to be offered by Senator Stevens on Alaskan oil, on which there shall be a total of 4 hours, to be equally divided and controlled by Senators Stevens and Riegle, with Senator Stevens able to divide his 2 hours among 3 amendments if he so chooses; 3 amendments by Senator Helms on U.S. oil exports, on each of which there shall be 1 hour; and an amendment by Senator McClure on legislative vetoes on farm exports, on which there shall be 1 hour) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Illinois (Mr. Stevenson) and the Senator from Pennsylvania (Mr. Heinz): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

(July 18, 1979).

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 1980

The Senate continued with the consideration of H.R. 4388.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, a parliamentary inquiry. How much time remains?

The PRESIDING OFFICER. The opponents have 1 minute and 2 seconds.

Mr. DANFORTH. I wonder if the manager for the opposition will yield that 1 minute and 2 seconds to me.

Mr. CHAFEE. I yield.

The PRESIDING OFFICER. Fifty-five seconds.

Mr. DANFORTH. Mr. President, suddenly we have been told that those who oppose a $142 million boondoggle are demagogs. I think we spend enough time promoting ourselves as politicians that we also can be self-critical and critical of some of the wastes we engage in without being demagogs. It is honesty, not demogoguery.

The Senator from Connecticut stated that government is people, that the American people are identical with their Government. I wish the American people would believe that. But in point of fact, the American people are beginning to feel that their Government is different, that it is different, that it operates in a different world, that it is expensive, that it is extravagant, that it has lost control of what is going on. That is what the American people think of their Government.

We have a symbolic opportunity right now to do something about it.

Mr. JOHNSTON. Mr. President, I point out that most of those who call this the Taj Mahal and other names have not seen the plans of the new building and have not been in the new building. That is No. 1.

No. 2, most of those have never taken time to see how 1,700 Senate employees live in the various buildings—the Carroll Arms and the other buildings in which they are housed. I wish they would take a look.

It is a disgrace, Mr. President. It is unsafe. It is crowded. It is inefficient. It is unmanageable in terms of their relationship to the Senate, and I think it is inadmissible.

I wish to stress one point: When this building is occupied, as the Pell modification would indicate, we will vacate those buildings and be able to sell them or put them to other use, thereby diminishing the cost of this building.

Mr. President, we have a critical choice to make here. As I say, I did not ask for this job. If the Senate turns down these recommendations of the Committee on Appropriations, it is OK with me. I just want Senators to know that they are going to leave a $70 million monument to nothing other than the imbecility of the Senate—$70 million, unoccupied, unable to be used—while 1,700 employees languish in unsafe facilities, crowded, less than 65 square feet per person, about a third of what the GSA says is minimal.

If that is economy, I do not know what economy means.

If there is anybody in this body who thinks that you are going to finish off that building and have a $70 million monument that is going to stand there forever and never be occupied, I would be very surprised if anyone present believes that. I think every Member of this body believes that that building is going to be finished ultimately. I do not think there is any question about that.

The question is whether we finish it now or whether we come in at some other time. Senator CHAFEE says the time will be when the budget is balanced and times are good and unemployment has gone and all these other never-never land things happen. But everybody believes that ultimately we are going to be in that building.

The basic issue is, do you do it now or do you let costs accumulate at $700,000 a month? That is the issue Do you want to spend $700,000 a month to make yourself feel good and say, "We are minimizing"? Do you want to hope you get past the next election and say, "I saved money on the Senate Office Building," while in the meantime you occupy unsafe, crowded conditions? Or do you want to do it now? That is our choice.

I do not say you can turn back the clock. I was not in the Senate when the legislation was passed in 1972 to commence this building. I was not even here, and I suspect that more than half of our colleagues were not here, either.

We are faced with a fait accompli. We are faced with a $70 million framework, steel and concrete, marble ordered, and I think it is time we finished it. It is the most prudent thing to do. It is the only prudent thing to do. It is the only economical thing to do.

The House delayed it last year, and maybe they will turn us down again, and it cost us $20 million—$20 million for 1 year's delay. I hope the Senate does not make that mistake today.

I urge the Senate to adopt the amendment.

● Mr. PERCY. Mr. President, I support the amendment offered by Senator JOHNSTON appropriating the final funds needed to complete the Hart Senate Office Building.

I recognize the importance of completing the Hart Senate Office Building, not only because I am convinced that additional office space is needed, but because a termination of the project at this late date would create a loss of a major investment by the taxpayers. This amendment, by appropriating an additional $57,480,700 in funds for the project with a ceiling of $142,627,700 on total construction and furnishing costs, will delete certain items from the building's design. I commend the Senate Office Building Commission and its distinguished chairman for this recommendation to reduce the cost of the Hart Building and eliminate the items in its design which are not absolutely necessary to the efficient operation of the Senate.

During debate on this matter last year, the Senate agreed to appropriate an additional $54.8 million for the Hart Building with a ceiling of $135 million on total construction and furnishing costs. That additional appropriation was then defeated in the House of Representatives, preventing the Architect of the Capitol from awarding the final contracts for the Hart Building. It was an expensive delay. If we were today considering the Hart Building appropriations without deleting any items from the project's design, the price tag would be $174,550,000, or an additional appropriation of $89,403,000. It is clear that we must act now to cut the cost of this project.

Last year, I introduced a resolution directing the Architect of the Capitol to make several deletions in the design of the Hart Building and I am pleased that all of them are included in Senator JOHNSTON's amendment. At that time, I pledged that I would not vote for any additional appropriations for the Hart Building until these items were deleted. The Commission has done an excellent job in cutting costs wherever possible.●

● Mr. ROTH. Mr. President, I concur in the statement offered by the Senator from Rhode Island.

Mr. President, the American people are tired of more costly Government and constantly increasing governmental size. They have spoken out clearly in the last few months all across this Nation. In over 30 States this year, citizens' movements rose to force State and local governments to cut back on their spending and reduce the tax burdens shouldered by the American taxpayer. Thirty States have passed resolutions asking the Congress to call a constitutional convention

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BELLMON. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The bill having been read the third time, the question is, Shall it pass. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee (Mr. SASSER), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent to attend a funeral.

The PRESIDING OFFICER. Are there other Senators present desiring to vote?

Are there others present desiring to vote?

The result was announced—yeas 90, nays 6, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—90

Armstrong	Hart	Muskie
Baucus	Hatch	Nelson
Bayh	Hatfield	Nunn
Bellmon	Hayakawa	Packwood
Bentsen	Heflin	Pell
Boren	Heinz	Percy
Boschwitz	Hollings	Pressler
Bradley	Huddleston	Pryor
Bumpers	Humphrey	Randolph
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Riegle
Cannon	Javits	Sarbanes
Chiles	Jepsen	Schmitt
Church	Johnston	Schweiker
Cochran	Kassebaum	Simpson
Cohen	Kennedy	Stafford
Cranston	Laxalt	Stennis
Culver	Leahy	Stevens
Danforth	Levin	Stewart
DeConcini	Long	Stone
Dole	Lugar	Talmadge
Durenberger	Magnuson	Thurmond
Durkin	Mathias	Tower
Eagleton	Matsunaga	Tsongas
Exon	McClure	Wallop
Ford	McGovern	Warner
Garn	Melcher	Weicker
Glenn	Metzenbaum	Williams
Goldwater	Morgan	Young
Gravel	Moynihan	Zorinsky

NAYS—6

Biden	Chafee	Roth
Byrd, Harry F., Jr.	Helms	
	Proxmire	

NOT VOTING—4

Baker	Sasser	Stevenson
Domenici		

So the bill (H.R. 4388) was passed.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Messrs. JOHNSTON, STENNIS, MAGNUSON, ROBERT C. BYRD, HOLLINGS, HUDDLESTON, BURDICK, SASSER, DECONCINI, HATFIELD, YOUNG, SCHWEIKER, BELLMON, MCCLURE, GARN, and SCHMITT conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, for the third time today, I compliment Mr. JOHNSTON.

The Energy and Water Development appropriations bill, considered by the Senate today is a complex measure which contains vitally important projects. The distinguished Senator from Louisiana (Mr. JOHNSTON) has managed this bill admirably under trying circumstances. As chairman of the Energy and Water Subcommittee of the Appropriations Committee, he has overseen the formulation of this bill in great detail.

The distinguished Senator from Oregon (Mr. HATFIELD) has contributed in equal measure to the consideration of this bill. His long experience as ranking member of the subcommittee provided additional expertise to the Senate in its deliberations on the Energy and Water Development bill.

Two key areas of national policy are affected by this measure—energy research and development and improvement of our water resources. In many cases, these two issues are inseparable. Hydroelectric projects are the prime examples of that fact. Transportation of energy resources is facilitated by the improvements to navigable waterways included in the bill.

Basic science research carried out by the Department of Energy is funded at a level which will provide the maximum amount of benefit for each dollar. More advanced research into solar power is provided for in order for the United States to have as many energy options available as possible.

In short, the Energy and Water Development appropriations bill coupled with the Interior appropriations bill, which we will consider at a later point, provide a sound structure on which to shape our energy policy and promote the efficient use of our natural resources.

Once again, I commend the subcommittee for its fine work on this difficult matter.

Mr. JOHNSTON. I thank the majority leader.

Mr. President, I thank again the distinguished ranking majority member, Senator HATFIELD, and his excellent staff for the cooperation we have had throughout this bill. It really has been a team effort and a bipartisan effort.

I especially thank Proctor Jones, Dave Gwaltney, and Mrs. Gloria Butland, of the committee staff, who have worked day and night, literally, sometimes through the night, for days on end, to put together a very difficult bill.

I think we have an excellent bill here, one that has been well thought out.

I thank all those responsible for their help in getting the bill passed.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. MAGNUSON. Mr. President, as chairman of the Appropriations Committee, I congratulate the Senator for the fine work that has been done on this bill. I know how difficult it is. It is not necessarily the most complex bill. I will not give way to the HEW bill. It is next to the HEW bill in complexity.

Proctor and the others have done a tremendous amount of work. I do not know how many witnesses the committee heard this year. I recall that I used to hear 600 or 700 witnesses.

Mr. JOHNSTON. More than 2,000 appeared this year. We have large groups and delegations—and about 700 or 800 witnesses presented testimony.

Mr. MAGNUSON. It is a tremendous job, and I congratulate the Senator from Louisiana as well as the Senator from Oregon for the way the bill was handled on the floor.

Mr. JOHNSTON. I thank the distinguished chairman of the full committee, who has been a great help in getting this bill passed. He attended many of our committee meetings and has been a great help.

Also, the distinguished ranking minority member, Senator YOUNG, I believe, attended every meeting of the committee. He is an expert on water resource matters as well as an expert on energy, and he has been a great help with the bill.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. YOUNG. Mr. President, this bill has become much more complicated than it used to be. I would not want to be the ranking minority member on the subcommittee now.

The energy part of it is so vast and complicated now that I do not know how the committee can even deal with it. The excellent staff is most helpful.

I commend both the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Oregon (Mr. HATFIELD) for the fine job they have done and for the patience and understanding they have exhibited. I also commend the able staff members on both sides, especially Proctor Jones, who I consider one of the most able staff members in the Senate.

Mr. JOHNSTON. I thank the Senator, and I share the Senator's opinion of Proctor Jones.

EXPORT ADMINISTRATION ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 737, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 737) to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the right to engage in commerce.

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and

Urban Affairs with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Export Administration Act of 1979".

FINDINGS

SEC. 2. The Congress makes the following findings:

(1) The ability of United States citizens to engage in international commerce is a fundamental concern of United States policy.

(2) Exports contribute significantly to the balance of trade, employment, and production of the United States.

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

(4) Exports of goods or technology without regard to whether they make a significant contribution to the military potential of individual countries or combinations of countries may adversely affect the national security of the United States.

(5) The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive tahn those imposed by other countries.

(6) Uncertainty of export control policy can curtail the efforts of American business to the detriment of the overall attempt to improve the trade balance of the United States and to decrease domestic unemployment.

(7) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

(8) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of technology (and goods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to the national security of the United States.

DECLARATION OF POLICY

SEC. 3. The Congress makes the following declarations:

(1) It is the policy of the United States to minimize uncertainties in export control policy and to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest.

(2) It is the policy of the United States to restrict the ability to export only after full consideration of the impact on the economy of the United States and only to the extent necessary—

(A) to prevent the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States;

(B) to further significantly the foreign policy of the United States or to fulfill its declared international obligations; and

(C) to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.

(3) It is the policy of the United States (A) to apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to encourage observance of a uniform export control policy by all nations with which the United States has defense treaty commitments.

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

(5) It is the policy of the United States—

(A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person;

(B) to encourage and, in specified cases, require United States persons engaged in the export of goods and technology or other information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person; and

(C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular goods or technology or other information to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies and private industry.

(7) It is the policy of the United States to use export controls, including license fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make every reasonable effort to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before resorting to the imposition of controls on exports from the United States. No action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies.

(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls.

(9) It is the policy of the United States to cooperate with other nations with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States or to the security of those countries with which the United States has defense treaty commitments.

AUTHORITY

SEC. 4. (a)(1) To the extent necessary to carry out the policies set forth in section 3 of this Act, the President, by rule or regulation, may prohibit or curtail the export of any goods or technology, or for the purpose of section 5 information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. To the extent necessary to achieve effective enforcement of this Act, these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person. In curtailing exports to carry out the policy set forth in section 3(2)(C) of this Act, the President is authorized and directed to allocate a portion of export licenses on the basis of factors other than a prior history of exportation.

(2)(A) In administering export controls for national security purposes as prescribed in section 3(2)(A) of this Act, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may deem appropriate. The President shall review not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, United States policy toward individual countries to determine whether such policy is appropriate in light of the factors specified in the preceding sentence.

(B) Rules and regulations under this subsection to carry out the policy set forth in section 3(2)(A) of this Act may provide for denial of any request or application for authority to export goods or technology from the United States, its territories and possessions, which would make a significant contribution to the military potential of any nation or combination of nations theatening the national security of the United States if the President determines that their export could prove detrimental to the national security of the United States. In administering export controls for national security purposes as prescribed in section 3(2)(A) of this Act, priority shall be given to preventing the effective transfer to countries to which exports are controlled for national security purposes of goods and technology critical to the design, development, production, or use of military systems which would make a significant contribution to the military potential of any nation or nations which could prove detrimental to the national security of the United States. The Secretary of Commerce, in consultation with the Secretary of Defense, shall review and revise not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, export controls maintained for national security purposes pursuant to this Act for the purpose of insuring that such controls are limited, to the maximum extent possible consistent with the purposes of this Act, to such militarily critical goods and technologies and the mechanisms through which they may be effectively transferred.

(C) Export controls maintained for foreign policy purposes shall expire on December 31, 1979, or one year after imposition, whichever is later, unless extended by the President in accordance with this subparagraph and subparagraph (D). Any such extension and any subsequent extension shall not be for a period of more than one year. When imposing, increasing, or extending export controls for foreign policy purposes pursuant to the authority provided by this Act, the President shall consider—

(i) alternative means to further the foreign policy purposes in question;

(ii) the likelihood that foreign competitors will join the United States in effectively controlling such exports;

(iii) the probability that such controls will achieve the intended foreign policy purpose;

(iv) the effect of such controls on United States exports, employment, and production, and on the international reputation of the United States as a supplier of goods and technology;

(v) the reaction of other countries to the imposition or enlargement of such export controls by the United States; and

(vi) the foreign policy consequences of not imposing controls.

(D) Whenever the President imposes, increases, or extends export controls for foreign policy purposes pursuant to authority provided by this Act, he shall inform the Congress of his action within thirty days and, to the extent consistent with the national interest, make public a report specifying his conclusions with respect to each of the matters considered as provided in subparagraph (C) of this paragraph and indicating how such export controls will further significantly the foreign policy of the United States or fulfill its declared international obligations.

(E) The President shall not impose export controls for foreign policy or national security purposes on the export from the United States of goods or technology which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States. Where, in accordance with this paragraph, export controls are imposed for foreign policy or national security purposes notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability.

(b)(1) Except as otherwise provided in this Act, the Secretary of Commerce shall reorganize the Department of Commerce as necessary to effectuate the policies set forth in this Act. The Secretary of Commerce shall prepare and maintain a list of goods and technology the export of which from the United States, its territories and possessions, is prohibited or regulated pursuant to this Act. The Secretary shall review such list not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, in order to make promptly such changes and revisions as may be necessary or desirable in furtherance of the policies set forth in this Act. The Secretary shall include in each review an assessment of the availability from sources outside the United States, its territories and possessions, of goods and technology in significant quantities and comparable in quality to those items included on such list. In order to further effectuate the policies set forth in this Act, the Secretary shall establish within the Office of Export Administration a capability for monitoring and gathering information on the foreign availability of goods and technology subject to export control.

(2) The Secretary of Commerce shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Secretary shall meet regularly with representatives of the business sector in order to obtain their views on export control policy and the foreign availability of goods and technology.

(c)(1)(A) To effectuate the policies set forth in this Act, the Secretary of Commerce shall establish at least the following three types of licenses in addition to such other types as the Secretary may deem appropriate:

(i) A validated license.

(ii) A qualified general license.

(iii) A general license.

(B) As used in this subsection—

(i) a "validated license" is a license authorizing the export of goods or technology pursuant to an application by an exporter in accordance with rules and regulations issued pursuant to this Act. A validated license may be required for the export of goods and technology subject to multilateral controls in which the United States participates or as determined pursuant to paragraph (2)

(ii) a "qualified general license" is a license authorizing the export to any destination of goods or technology, or a class of goods or technology, subject to the conditions contained in rules and regulations issued pursuant to this Act, including conditions pertaining to approval of the particular consignee and end-use of the goods or technology. The goods and technology subject to control by qualified general license shall be determined pursuant to paragraph (2) of this subsection; and

(iii) a "general license" is a license authorizing the export of a class of goods or technology without specific approval if the export is effected in accordance with the conditions contained in rules and regulations issued pursuant to this Act.

(2) To effectuate the policies set forth in section 3 of this Act, it is the intent of Congress that the use of validated licenses be limited to the greatest extent possible to the control of the export of goods and technology which are subject to multilateral controls in which the United States participates. To the extent that the President determines that the policies set forth in section 3 of this Act require the control of the export of other goods and technology, or more stringent controls than the multilateral controls, he will report to the Congress not later than six months after the date of enactment of this Act, and thereafter in each annual report, the reasons for the need to impose, or to continue to impose, such controls. It is further the intent of Congress that export controls which exceed the multilateral controls shall be effected to the greatest extent possible consistent with the purposes of this Act by means of qualified general licenses.

(3) Not later than sixty days after the date of enactment of this Act, the Secretary of Commerce shall establish procedures for the approval of goods and technology that may be exported pursuant to a qualified general license.

(d)(1)(A) All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this subsection.

(B) It is the intent of Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other Government agency.

(C) To the extent necessary, the Secretary shall seek information and recommendations from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. These departments and agencies shall cooperate fully in rendering such information and recommendations.

(2) Within ten days after the date on which any export license application is received, the Secretary shall—

(A) send the applicant an acknowledgement of the receipt of the application and the date of the receipt;

(B) submit to the applicant a written description of the procedures required by this subsection, the responsibilities of the Secretary and of other agencies with respect to the application, and the rights of the applicant;

(C) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this subsection;

(D) determine whether it is necessary to submit the application to any other agency and, if such submission is determined to be necessary, inform the applicant of the agency or agencies to which the application will be referred; and

(E) determine whether it is necessary to submit the application to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, if so, inform the applicant of this requirement.

(3) In each case in which the Secretary determines that it is not necessary to submit an application to any other agency for its information and recommendations, a license shall be formally issued or denied within ninety days of the receipt of a properly completed application, unless additional time is required and the applicant specifically requests an extension.

(4) In each case in which the Secretary determines that it is necessary to submit an application to any other agency for its information and recommendations, the Secretary shall, within thirty days of the receipt of a properly completed application—

(A) submit the application together with all necessary analysis and recommendations of the Department of Commerce concurrently to other appropriate agencies; and

(B) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation to be submitted to such other agencies with respect to such application for the purpose of describing the export in question in order to determine whether such documentation accurately describes the proposed export.

(5)(A) Any agency to which an application is submitted pursuant to paragraph (4) shall submit to the Secretary, within thirty days after its receipt of the application, the information or recommendations requested with respect to such application. Except as provided in subparagraph (B), any such agency which does not submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the Secretary to have no objection to the approval of such application.

(B) If the head or acting head of any such agency notifies the Secretary before the expiration of the time period provided in subparagraph (A) for submission of its recommendations that more time is required for review by such agency, such agency shall have an additional thirty-day period to submit its recommendations to the Secretary. If such agency does not so submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the Secretary to have no objection to the approval of such application.

(6)(A) Within ninety days after receipt of other agency recommendations, as provided for in paragraph (5), the Secretary shall formally issue or deny a license, unless additional time is required and the applicant

specifically requests an extension. In deciding whether to issue or deny a license, the Secretary shall take into account any recommendation of an agency advising on the application in question. In cases where the Secretary receives conflicting recommendations, the Secretary shall, within the ninety days provided for in this subsection, take such action as may be necessary to resolve such conflicting recommendations.

(B) In cases where the Secretary receives questions or negative considerations or recommendations from other agencies advising on an application, the Secretary shall, to the maximum extent consistent with the national security or foreign policy of the United States, inform the applicant of the specific questions raised and any negative considerations or recommendations made by an agency, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations.

(C) In cases where the Secretary has determined that an application should be denied, at the time of the formal denial, the applicant shall be informed, to the maximum extent consistent with the national security or foreign policy of the United States, of the specific reasons for such denial.

(7)(A) Notwithstanding any other provision of this subsection, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

(B) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the Secretary, and confirm in writing the types and categories of transactions which should be reveived by him in order to make a determination referred to in subparagraph (A). Whenever a license or other authority is requested for the export to any country to which exports are controlled for national security purposes of goods or technology within any such type or category, the Secretary shall notify the Secretary of Defense of such request, and the Secretary may not issue any license or other authority pursuant to such request before the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this subparagraph and, not later than thirty days after notification of the request, shall—

(i) recommend to the President that he disapprove any request for the export of any goods or technology to any such country if he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

(ii) notify the Secretary that he would recommend approval subject to specified conditions; or

(iii) recommend to the Secretary that the export of goods or technology be approved.

If the President notifies the Secretary, within thirty days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country.

(C) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this paragraph, and, to the extent applicable in accordance with the time periods and procedures otherwise set forth in this subsection.

(8) In any case in which an application, which has been finally approved under paragraph (4), (7), or (8) of this subsection, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such paragraphs, but the Secretary shall notify the applicant of the approval (and the date of such approval) of the application by the Secretary subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review.

(9) The Secretary and any agency to which any application is referred under this subsection shall keep accurate records with respect to all applications considered by the Secretary or by any such agency.

(e)(1) To effectuate the policy set forth in section 3(2)(C) of this Act, the Secretary of Commerce shall monitor exports, and contracts for exports, of any goods (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy, any sector thereof, or any industry or substantial segment thereof. Such monitoring shall commence at a time adequate to insure that data will be available which is sufficient to permit achievement of the policies of this Act, and shall include the gathering of data concerning the volume of exports indicated under all contracts providing for the export of such goods following the date of the filing of the petition under section 7(a)(1). Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection and in the last two sentences of section 10(c) of this Act.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each item monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports.

(f) In imposing export controls to effectuate the policy stated in section 3(2)(C) of this Act, the President's authority shall include but not be limited to, the imposition of export license fees.

(g)(1) Notwithstanding any other provision of this Act and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), no domestically produced crude oil transported by pipeline over right-of-way granted pursuant to the requirements of section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653) (except any such crude oil which (A) is exported, for the purpose of effectuating an exchange in which the crude oil is exported to an adjacent foreign state to be refined and consumed therein, in exchange for the same quantity of crude oil being exported from that state to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in paragraph (2)(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) the President makes and publishes an express finding that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) will, within three months following the initiation of such exports or exchanges, result in (a) acquisition costs to the refiners being lower than the acquisition costs such refiners would have to pay for the domestically produced crude oil in the absence of such an export of exchange and (b) that not less than 75 per centum of the savings shall be reflected in reduced wholesale and retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contract which may be terminted if the crude oil, supplies of the United States are interrupted, threatened, or diminished;

(iv) are clearly necessary to protect the national interest; and

(v) are in accordance with the provisions of this Act; and

(B) the President reports such finding to the Congress and the Congress within sixty days thereafter passes a concurrent resolution of approval.

(3) Notwithstanding the foregoing provisions of this subsection or any other provision of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act, provided, that the President promptly notifies Congress of each such agreement.

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

(i)(1) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by him to be in excess of the requirements of the domestic economy, except to the extent the President determines that such exercise of authority is required to effectuate the policies set forth in sections 3(2)(A) or (B) of this Act. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity unless he has (i) given full consideration to the alternative of using the Commodity Credit Corporation to purchase such commodity and arrange sales to foreign governments in accordance with the provisions of the Commodity Credit Corporation Charter Act so as to stabilize markets and maximize returns to agricultural producers, and (ii) determined that export controls are preferable to such use of the au-

thority granted by the Commodity Credit Corporation Charter Act.

(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)(C) 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, finds (A) that such commodities will eventually be exported, (B) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (C) that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (D) 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 paragraph.

(j) Nothing in this Act or the rules or regulations thereunder shall be construed to require authority or permission to export, except where required by the President to effect the policies set forth in section 3 of this Act.

(k) The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may deem appropriate, except that no authority under this Act may be delegated to, or exercised by, any official of any department or agency the head of which is not appointed by and with the advice and consent of the Senate.

(l)(1) Any United States firm, enterprise, or other nongovernmental entity which, for commercial purposes, enters into an agreement with an agency of a government in another country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement calling for the encouragement of technical cooperation and is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report such agreement to the Secretary of Commerce.

(2) The provisions of this subsection shall not apply to colleges, universities, or other educational institutions.

(3) The Secretary of Commerce is authorized to issue such rules and regulations as are necessary to implement the provisions of this subsection.

(m) The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for negotiations with other countries regarding their cooperation in restricting the export of goods and technologies whose export should be restricted pursuant to section 3(9) of this Act, as authorized under section 4(a)(1) of this Act, including negotiations on the basis of approved administration positions as to which goods and technologies should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.

(n) The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee (hereinafter in this subsection referred to as the "Committee") with a view toward reaching—

(A) an agreement to publish the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such list, and all changes thereto;

(B) an agreement to hold periodic meetings of such governments with high-level representation from such governments, for the purpose of providing guidance on export control policy issues to the Committee;

(C) an agreement to modify the scope of the export controls imposed by agreement of the Committee to a level accepted and enforced by all governments participating in the Committee; and

(D) an agreement on more effective procedures for enforcing the export controls agreed to pursuant to subparagraph (C).

(o) In order to ensure that requirements for validated licenses and qualified general licenses are periodically removed as goods or technology subject to such requirements become obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for annual increases in the performance levels of goods or technology subject to any such licensing requirement. Any such goods or technology which no longer meet the performance levels established by the latest such increase shall be removed from the list established pursuant to subsection (b)(1) of this section unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other Government agency objects to such removal and the Secretary determines, on the basis of such objection, that the goods or technology shall not be removed from the list. Consideration shall also be given by the Secretary, where appropriate, to removing site visitation requirements for goods and technology which are removed from the above-mentioned list unless objections described in this subsection are raised.

(p)(1) Notwithstanding any other provision of this Act, no horse may be exported by sea from the United States, its territories and possessions, unless such horse is part of a consignment of horse with respect to which a waiver has been granted under paragraph (2) of this subsection.

(2) The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue rules and regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

FOREIGN BOYCOTTS

SEC. 5. (a)(1) For the purpose of implementing the policies set forth in section 3(5)(A) and (B), the President shall issue rules and regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of rules and regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotting country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary of Commerce.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by rules and regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Rules and regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms on or after June 22, 1978, other than with respect to carriers or route of shipment as may be permitted by such rules and regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycoting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with

export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regardng requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such rules and regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his own use, including the performance of contractual services within that country, as may be defined by such rules and regulations.

(3) Rules and regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) Rules and regulations pursuant to this subsection shall be issued not later than ninety days after the date of enactment of this section and shall be issued in final form and become effective not later than one hundred and twenty days after they are first issued, except that (A) rules and regulations prohibiting negative certification may take effect not later than one year after the date of enactment of this section, and (B) a grace period shall be provided for the application of the rules and regulations issued pursuant to this subsection to actions taken pursuant to a written contract or other agreement entered into on or before May 16, 1977. Such grace period shall end on December 31, 1978, except that the Secretary of Commerce may extend the grace period for not to exceed one additional year in any case in which the Secretary finds that good faith efforts are being made to renegotiate the contract or agreement in order to eliminate the provisions which are inconsistent with the rules and regulations issued pursuant to paragraph (1).

(6) This Act shall apply to any transaction or activity undertaken, by or through a United States or other person, with intent to evade the provisions of this Act as implemented by the rules and regulations issued pursuant to this subsection, and such rules and regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b)(1) In addition to the rules and regulations issued pursuant to subsection (a) of this section, rules and regulations issued under section 4(a) of this Act shall implement the policies set forth in section 3(5).

(2) Such rules and regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) shall report that fact to the Secretary of Commerce, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the policies of that section. Such person shall also report to the Secretary of Commerce whether he intends to comply and whether he has complied with such request. Any report filed pursuant to this paragraph after the date of enactment of this section shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any goods or technology to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary of Commerce shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies set forth in section 3(5) of this Act.

(c) The provisions of this section and the rules and regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, and any of the territories or possessions of the United States, or of any governmental sudivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

SEC. 6 (a) Any person who, in his domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a commodity historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a commodity, may transmit a petition of hardship to the Secretary of Commerce requesting an exemption from such controls in order to alleviate any unique hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Secretary of Commerce shall prescribe and shall contain information demonstrating the need for the relief requested.

(b) Not later than thirty days after receipt of any petition under subsection (a), the Secretary of Commerce shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Secretary's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Secretary deems appropriate.

(c) For purposes of this section, the Secretary's decision with respect to the grant or denial of relief from unique hardship resulting directly or indirectly from the imposition of controls shall reflect the Secretary's consideration of such factors as—

(1) whether denial would cause a unique hardship to the petitioner which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Secretary will take into account:

(A) ownership of material for which there is no practicable domestic market by virtue of the location or nature of the material;

(B) potential serious financial loss to the applicant if not granted an exception;

(C) inability to obtain, except through import, an item essential for domestic use which is produced abroad from the commodity under control;

(D) the extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

(E) possible adverse effects on the economy (including unemployment) in any locality or region of the United States; and

(F) other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular commodity; and

(2) the effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

In all cases, the desire to sell at higher prices and thereby obtain greater profits will not be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the petitioner.

PETITIONS FOR MONITORING OR CONTROLS

SEC. 7. (a)(1) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes any material or commodity may transmit a written petition to the Secretary of Commerce requesting the imposition of export controls, or the monitoring of exports, or both, with respect to such material or commodity.

(2) Each petition shall be in such form as the Secretary of Commerce shall prescribe and shall contain information in support of the action requested.

(b) Within fifteen days of receipt of any petition described in subsection (a), the Secretary of Commerce shall cause to be published a notice in the Federal Register. The notice shall include (1) the name of the material or commodity which is the subject of the petition, (2) the Schedule B number of the material or commodity as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (3) whether the petitioners is requested that control or monitoring, or both, be imposed with respect to the exportation of such material or commodity, and (4) provide that interested persons shall have a period of thirty days commencing with the date of publication of such notice to submit to the Secretary of Commerce written data, views, or arguments, with or without opportunity for oral presentation. At the request of any person, the Secretary shall conduct public hearings with respect to the subject of the petition, in which event the thirty-day period shall be extended to forty-five days.

(c) Within thirty days after the end of the thirty-day or forty-five-day period described in subsection (b), the Secretary of Commerce shall—

(1) determine whether to impose monitoring or controls or both on the exportation of such material or commodity; or

(2) publish in the Federal Register a detailed statement of the reasons for such determination.

(d) Within fifteen days following a decision under subsection (c) to impose monitoring or controls on the exportation of a material or commodity, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within thirty days following the publication of such notice, and after considering any public comments, the Secretary shall publish and implement final regulations.

(e) The procedures and time limits set forth in this section shall take precedence over any review undertaken at the initiative of the Secretary.

(f) The Secretary shall have the authority to impose monitoring or controls on a temporary basis during the period following the filing of a petition under subsection (a)(1) and his determination under subsection (c) if he deems such action to be necessary to

effectuate the policy set forth in section 3(2)(C) of this Act.

(g) The authority under this section shall not be construed to affect the authority of the Secretary of Commerce under any other provision of this Act.

CONSULTATION AND STANDARDS

SEC. 8. (a) In determining what shall be controlled or monitored under this Act, and in determining the extent to which exports shall be limited, any department, agency, or official making these determinations shall seek information and advice from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. Such departments and agencies shall fully cooperate in rendering such advice and information. Consistent with considerations of national security, the President shall seek information and advice from various segments of private industry in connection with the making of these determinations. In addition, the Secretary of Commerce shall consult with the Secretary of Energy to determine whether, in order to effectuate the policy stated in section 3(2)(C) of this Act, monitoring or controls are necessary with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.

(b)(1) In authorizing exports, full utilization of private competitive trade channels shall be encouraged insofar as practicable, giving consideration to the interests of small business, merchant exporters as well as producers, and established and new exporters, and provision shall be made for representative trade consultation to that end. In addition, there may be applied such other standards or criteria as may be deemed necessary by the head of such department, or agency, or official to carry out the policies of this Act.

(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy stated in section 3(2)(C) of this Act, the Secretary of Commerce shall include in the notice published in the Federal Register an invitation to all interested parties to submit written comments within fifteen days from the date of publication of the impact of such restrictions and the method of licensing used to implement them.

(c)(1) Upon written request by representatives of a substantial segment of any industry which produces goods or technology which are subject to export controls or are being considered for such controls because of their significance to the national security of the United States, or whenever he deems appropriate to further the purposes of this Act, the Secretary of Commerce shall appoint a technical advisory committee for any grouping of such goods or technology which he determines is difficult to evaluate because of questions concerning technical matters, worldwide availability and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and government, including the Departments of Commerce, Defense, and State, and, when appropriate, other Government departments and agencies. No person serving on any such committee who is representative of industry shall serve on such committee for more than four consecutive years.

(2) It shall be the duty and function of the technical advisory committees established under paragraph (1) to advise and assist the Secretary of Commerce and any other department, agency, or official of the Government of the United States to which the President has delegated power, authority, and discretion under section 4(e) with respect to actions designed to carry out the policy set forth in section 3 of this Act. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. Nothing in this subsection shall prevent the Secretary from consulting, at any time, with any person representing industry or the general public regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary of Commerce, to present evidence to such committees.

(3) Upon request of any member of any such committee, the Secretary may, if he determines it appropirate, reimburse such member for travel, subsistence, and other necessary expenses incurred by him in connection with his duties as a member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the Chairman, unless the Chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this Act. Each such committee shall be terminated after a period of two years, unless extended by the Secretary for additional periods of two years. The Secretary shall consult each such committee with regard to such termination or extension of that committee.

(5) To facilitate the work of the technical advisory committees, the Secretary of Commerce, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security and foreign policy, pertaining to the reasons for the export controls which are in effect or contemplated for the grouping of goods or technology with respect to which that committee furnishes advice.

(6) Whenever a technical advisory committee certifies to the Secretary of Commerce that goods or technology are available in fact from sources outside the United States in sufficient quantity and of comparable quality so as to render United States export controls ineffective in achieving the purposes of this Act, and provides adequate documentation for such certification, the Secretary of Commerce shall investigate and report to the technical advisory committee on whether the Secretary concurs with the certification. If the Secretary concurs, the Secretary shall submit a recommendation to the President who shall act in accordance with section 4(a)(2)(E) of this Act.

VIOLATIONS

SEC. 9. (a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.

(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or $100,000, whichever is greater, or imprisoned not more than ten years, or both.

(c)(1) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(2)(A) The authority under this Act to suspend or revoke the authority of any United States person to export goods or technology may be used with respect to any violation of the rules and regulations issued pursuant to section 5(a) of this Act.

(B) Any admininstrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the rules and regulations issued pursuant to section 5(a) of this Act may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the rules and regulations issued pursuant to section 5(a) of this Act shall be made available for public inspection and copying.

(d) The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any penalty imposed uder subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a 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.

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

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

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

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

(2) the authority to compromise and settle administrative proceedings brought with re-

spect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

SEC. 10. (a) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

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

(c) Except as otherwise provided by the third sentence of section 5(b)(2) and by section 9(c)(2)(C) of this Act, information obtained under this Act, which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552(b)(3)(B) of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary of Commerce determines that the withholding thereof is contrary to the national interest. Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under section 4(b), shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.

(d) In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 11. (a) Except as provided in section 9(c)(2), the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) It is the intent of Congress that, to the extent practicable, all regulations imposing controls on exports under this Act be issued in proposed form with meaningful opportunity for public comment before taking effect. In cases where a regulation imposing controls under this Act is issued with immediate effect, it is the intent of Congress that meaningful opportunity for public comment also be provided and that the regulation be reissued in final form after public comments have been fully considered. The Secretary shall include in the annual report required by this Act a detailed accounting of the issuance of regulations under the authority of this Act, including an explanation of each case in which regualtions were not issued in accordance with the first sentence of this subsection.

ANNUAL REPORT

SEC. 12. (a) The Secretary of Commerce shall make an annual report to the President and to the Congress on the implementation of this Act.

(b) Each annual report shall include an accounting of—

(1) actions taken by the President and the Secretary of Commerce to effect the anti-boycott polices set forth in section 3(5) of this Act;

(2) organizational and procedural changes instituted and any reviews undertaken in furtherance of the policies set forth in this Atc;

(3) efforts to keep the business sector of the Nation informed about policies and procedures adopted under this Act;

(4) any changes in the exercise of the authorities of section 4(a) of this Act;

(5) the results of review of United States policy toward individual countries called for in section 4(a)(2)(A);

(6) the results, in as much detail as may be included consistent with the national security and the need to maintain the confidentiality of proprietary information, of the actions, including reviews and revisions of export controls maintained for national security purposes, required by section 4(a)(2)(B);

(7) actions taken pursuant to section 4(b)(1), including changes made in control lists and assessments of foreign availability;

(8) evidence demonstrating a need to impose export controls for national security or foreign policy purposes in the face of foreign availability as set forth in section 4(a)(2)(E);

(9) the information contained in the reports required by section 4(e)(2) of this Act, together with an analysis of—

(A) the impact on the economy and world trade of shortages or increased prices for commodities subject to monitoring under this Act or section 812 of the Agricultural Act of 1970;

(B) the worldwide supply of such commodities; and

(C) actions being taken by other nations in response to such shortages or increased prices;

(10) delegations of authority by the President as provided for under section 4(k) of this Act;

(11) the progress of negotiations under section 4(n) of this Act;

(12) the number and disposition of export license applications taking more than 90 days to process pursuant to section 4(d) of this Act;

(13) consultations undertaken with technical advisory committees pursuant to section 8(c) of this Act, the use made of advice given, and the contribution such committees made in carrying out the policies of this Act;

(14) violations of the provisions of this Act and penalties imposed pursuant to this Act; and

(15) any revisions to reporting requirements prescribed in section 10(d).

(c) The heads of other involved departments and agencies shall fully cooperate with the Secretary of Commerce in providing all information required by the Secretary of Commerce to complete the annual reports.

DEFINITIONS

SEC. 13. As used in this Act—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

(2) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

(3) the term "goods" means any article, material, supply or manufactured product, including inspection and test equipment, and excluding technical data; and

(4) the term "technology" means the information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves.

EFFECTS ON OTHER ACTS

SEC. 14. (a) The Act of February 15, 1936 (49 Stat. 1140), relating to the licensing of exports of tinplate scrap, is hereby superseded; but nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(c) On October 1, 1979, the Mutual Defense Assistance Control Act of 1951, as amended (22 U.S.C. 1611–1613d), is superseded.

AUTHORIZATION OF APPROPRIATIONS

SEC. 15. (a) Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act for any fiscal year commencing on or after October 1, 1980, unless previously and specifically authorized by legislation.

(b) There are authorized to be appropriated to the Department of Commerce $8,000,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs) for fiscal year 1980 to carry out the purposes of this Act, of which $1,250,000 shall be available only for purposes of establishing and maintaining the capability to make foreign availability assessments called for by section 4(b)(1).

EFFECTIVE DATE

SEC. 16. (a) This Act takes effect upon the expiration of the Export Administration Act of 1969.

(b) All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 or section 6 of the Act of July 2, 1940 (54 Stat. 714), or the Export Administration Act of 1969 shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act.

TERMINATION DATE

SEC. 17. The authority granted by this Act terminates on September 30, 1983, or upon any prior date which the President by proclamation may designate.

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS, 1980

The PRESIDING OFFICER. Under the previous order, S. 737 will be set aside, and the Senate will proceed to the consideration of H.R. 4387, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4387) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1980, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with an amendment in the nature of a substitute.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, I ask unanimous consent that Andrew Jacobs, of the Agriculture Appropriations Subcommittee staff, be granted the privilege of the floor during the consideration of H.R. 4387.

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

Mr. EAGLETON. Mr. President, after I deliver my opening statement, I will yield to the Senator from Oklahoma (Mr. BELLMON). I must then leave the floor temporarily to introduce a witness at a confirmation hearing, and I will be absent during Senator BELLMON's statement.

Mr. President, the 1980 agriculture appropriations bill includes $16,840,597,000 in budget authority, plus $1,831,086,000 in section 32 transfers and $84,726,000 in other transfers, for total obligational authority of $18,756,409,000.

In gross terms, the bill is $1,482,937,000 less than the President's request in budget authority, and $1,278,208,000 less than the total obligational authority requested in the budget, but these figures mask the real totals because of the food stamp authorization ceiling which has resulted in an unrealistically low food stamp figure in the bill. As I explained earlier, this could require some $2.4 billion more than is included in the bill.

Making adjustments for food stamps, section 32 receipts which were higher than estimated in the President's budget, and the home ownership assistance program, which is unusual in that it is a 33-year housing program, the bill before the Senate, according to the calculations of the committee staff, is actually $189 million more than the President's budget in new budget authority. This is shown on table I attached.

Mr. President, review of this bill has been a difficult task this year, given the competing pressures of fiscal tightness in overall budget and the many requests from both outside groups and Members of the Congress as well. Outside witnesses appearing before the committee requested total add-ons to the budget of $2.9 billion in budget authority. Senators appearing before the committee or communicating their views to us, requested add-ons to the budget of about $700 million. We have tried to fashion a reasonable bill that adds in the items that are of most merit, but keeps these add-ons to a minimum.

The committee report contains a section on pages 7 and 8 that summarizes major changes to the House bill, and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

Now, I would like to summarize what is in the bill by title.

Title I, agricultural programs, includes:

The sum of $859,515,000 for the Science and Education Administration, including $370,679,000 for agricultural research in-house, $198,484,000 for cooperative research, and $274,767,000 for extension. The grand total for all SEA programs is $59.8 million above the budget and $16.9 million above the House allowance. Included here are many restorations of items cut in the budget, and funding for the competitive grants progam as well as formula grant programs.

The sum of $248,241,000 for the Animal and Plant Health Inspection Service, a figure which is $27,265,000 above the budget and $10,658,000 above the House figure. Included here are funds for plant and animal disease and pest control, including a significant increase to fund a 10-year brucellosis eradication program.

The sum of $278,430,000 for activities of the Food Safety and Quality Service. This principally involves meat, poultry and egg inspection, as well as voluntary grading activities.

The sum of $334,935,000 including both appropriations and transfers, for salaries and expenses of the Agricultural Stabilization and Conservation Service, principally to run the farm price support programs.

The sum of $3,056,189,000 for reimbursements for net realized losses of the Commodity Credit Corporation for prior year price support and loan programs.

In title II, rural development programs, the bill provides $5 billion for loans and programs of the rural housing insurance fund. This includes various low, moderate and above-moderate income programs, as well as the new home ownership assistance program (HOAP).

This title also provides $2.7 billion for loans and programs of the agricultural credit insurance fund, including $870 million in authorizations for farm ownership and $875 million for farm operating loans.

For the rural development insurance fund, the bill includes a total authorization of $2.1 billion. This fund finances water and sewer facility loans, as well as business and industrial loans, which are authorized at the $1.1 billion level.

Grants for various rural development programs are also included in this title, totaling $377.7 million, and involving $300 million for water and waste disposal, section 111 rural development planning, business and industrial and other programs.

Salaries and expenses of the Farmers Home Administration total $228,278,000 in the bill. Also funded in this title are salaries and expenses for the Rural Electrification Administration for $26,045,000, along with loan authorizations of $850 million for electric loans and $250 million for telephone loans.

For the Soil Conservation Service, a total of $564,134,000 is included. This involves over $254 million for conservation operations and technical assistance, $162.5 million for watershed and flood prevention operations under Public Laws 566 and 534, $32 million to begin a 3-year closeout of the resource conservation and development program, and $75 million for a new rural clean water program.

The bill also includes $225 million for conservation programs of the ASCS, including $190 million for the agricultural conservation program.

For title III, domestic programs, the bill includes $8,528,987,000, funding all of the child nutrition programs, the special milk program, the special supplemental feeding programs, food stamps, food donations as well as the necessary food program administration of the Food and Nutrition Service.

For title IV, international programs, the bill includes $56,807,000 for the Foreign Agricultural Service for agricultural attaches and market development activities, plus authority for the various titles of food for peace, Public Law 480. Here, the committee recommends funding the budget request, using available unobligated balances.

Title V of the bill includes $353,534,000 to finance activities of the Food and Drug Administration and the Commodity Futures Trading Commission. Included in this title is $27 million to fund an urgently needed new laboratory building for the Food and Drug Administration.

Title VI includes various general provisions, most of which have previously appeared in agriculture appropriations acts. A new provision would mandate that whenever personnel ceilings result in savings of salaries and expense funding, these savings revert to the Treasury without rescission, instead of becoming available for expenditure for nonpersonnel costs.

There is one final matter concerning budgetary scorekeeping. Page 3 of the committee report on the bill includes a budgetary impact table that was prepared by CBO. This table is somewhat misleading, in that all amounts counted against the Agriculture Subcommittee's allocations are not shown thereon. I have included a table at the conclusion of my remarks, showing that the bill as reported is $1,633,000,000 under the subcommittee allocation for budget authority and $1,631,000,000 under the subcommittee allocation for outlays. Of course,

ices to States which do not currently participate in some programs.

OTHER DOMESTIC PROGRAMS

The bill also contains funding recommendations for "support services" which do not fall neatly into the health, labor, or education categories; these are provided by various entities, primarily by the Office of Human Development which, through State grants, provides Federal financial assistance for social services to children, the poor, and the elderly.

In addition, the bill provides funding for 11 independent, related agencies as diverse as the Community Services Administration and the Corporation for Public Broadcasting.

It is important to note that a large portion of the Federal spending for domestic assistance is accounted for by "uncontrollable" or entitlement items. The expenditures, or annual costs of an entitlement program, are automatically appropriated each year without consideration by the Congress during the annual appropriations process; they are funds which, by law, must be made available. Principal items in this category are the unemployment compensation, social security, and railroad retirement trust funds. For fiscal year 1980, it is estimated that the new budget authority for the trust funds is estimated to total more than $173 billion.

Mr. President, as my colleagues can see from the preceding points, the Labor-HEW appropriations bill is truly massive and complex. I want again to extend my most sincere compliments and thanks to Senator MAGNUSON and the members of the subcommittee and the committee for the hard efforts and fine work they put into this bill.

The result reflects a commitment to control Government spending and Government waste while maintaining adequate levels of Federal support for the many programs which affect the lives of so many Americans.

EXPORT ADMINISTRATION ACT OF 1979

The PRESIDING OFFICER. The Senate will now resume the consideration of S. 737, which the clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 181, a bill (S. 737) to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the right to engage in commerce.

AMENDMENT NO. 340

Purpose: To give the Secretary of Defense primary responsibility for list of goods and technologies subject to national security controls.

Mr. ROBERT C. BYRD. Mr. President, I have been asked by Mr. JACKSON to lay down for him amendment No. 340, with the understanding, and I ask unanimous consent, that the time not run on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. JACKSON, and Mr. NUNN, Mr HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. TOWER, Mr. MOYNIHAN, and Mr. THURMOND proposes an amendment numbered 340.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

Beginning with page 60, line 25, through page 61, line 1, strike out "The Secretary of Commerce, in consultation with the Secretary of Defense" and insert in lieu thereof "The Secretary of Defense, in consultation with the Secretary of Commerce, and as appropriate, other departments and agencies and technical advisory committees".

On page 63, line 15, strike out "The Secretary of Commerce" and insert in lieu thereof "Subject to the authority of the Secretary of Defense under subsection (a)(2)(B) of this section, the Secretary of Commerce".

On page 64, line 3, after the period, insert the following: "The provisions of this paragraph relating to revisions and changes in such list and assessment of foreign availability apply also to the functions of the Secretary of Defense under subsection (a)(2)(B) of this section.".

At the bottom of page 99, add the following:

"(d) The Secretary of Defense shall have the same authorities and responsibilities as the Secretary of Commerce under paragraphs (1) through (5) of subsection (c) in order to carry out his responsibilities under this Act.".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 345

(Purpose: To provide for the elimination of foreign availability through negotiations and trade of commercial sanctions to secure cooperation)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that an amendment by Mr. JACKSON, for himself, and Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. TOWER, and Mr. MOYNIHAN, numbered 345 be eligible, notwithstanding the nongermaness portion of the agreement.

Mr. JACKSON had indicated earlier that he wanted this amendment in. We did not clear it during the agreement. We did clear the agreement with Mr. JACKSON, and I hope there will be no objection to letting this amendment come in.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I do not see any objection to that. Senator JACKSON had discussed with us the fact that he was going to offer several amendments. He could have mentioned them specifically and gotten them out of the germaneness rule. I do not see any reason to object to this.

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

The amendment is as follows:

AMENDMENT NO. 345

On page 63, line 11, after the period insert the following: "A technology or good which is proposed for, or subject to, export control for national security purposes and which is not possessed in comparable quality or quantity by a nation or combination of nations threatening the national security of the United States shall not be deemed to be available to such nation or nations from foreign sources until the Secretary of State certifies in writing that negotiations with the appropriate foreign governments for the purpose of eliminating foreign availability have not been successful. In order to secure cooperation of foreign governments in eliminating availability of critical goods and technologies, the President is authorized, except as otherwise prohibited by law, to impose trade or other commercial sanctions, including but not limited to prohibiting exports of all or certain technology or goods to such a nation, or prohibiting imports of all or certain technology or goods from such a nation. Within one year after the date of enactment of this Act, the President shall submit a report to Congress on the specific limitations other provisions of law impose on the exercise of his authority under this subparagraph, together with his recommendations.".

SUPPLEMENTAL APPROPRIATIONS, 1979—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on H.R. 4289 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4289) making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 11, 1979.)

Mr. MAGNUSON. Mr. President, the conference agreement for H.R. 4289—supplemental appropriations for fiscal year 1979—is $13,783,822,100. This is an increase of $2.2 billion above the House passed bill and a reduction of $243 million below the Senate passed bill. The agreement is a reduction of $3.1 billion below the budget estimates submitted by the President.

The agreement includes $11.4 billion for increased program costs under title I and $2.4 billion for increased pay costs for Federal employees—both military and civilian. The increased pay rates were effective in October 1978 pursuant to Executive Order 12087.

Other large programs accommodated in the conference agreement include $900 million for food stamps, $1.3 billion for procurement of four DD-993 guided missile destroyers for the U.S. Navy, $1 billion for the disaster loan fund, $1.4 billion to support the Middle East peace treaty, $1.1 billion for additional Veterans' Administration compensation and pension requirements, and $800 million for black lung and unemployment benefits.

I believe the funding allowed by the agreement will be adequate to support the various Departments for the remainder of fiscal year 1979.

Mr. President, I urge adoption of the conference report on H.R. 4289—supplemental appropriations for fiscal year 1979.

aggressive and forthright way. He has demonstrated outstanding leadership in championing the accessibility needs of our elderly and handicapped citizens, the merits of a modern and fully functional public transportation system, the need to stick by and improve upon our previous commitments to make automobiles as fuel efficient and nonpolluting as possible, enhanced safety in all modes of transportation, and regulatory reforms which make sense for a major portion of our country's transportation system.

Mr. President, I have not always agreed with the Secretary of Transportation, my friend, Brock Adams, on every issue. But I must say, as chairman of the Appropriations Subcommittee on Transportation, I always found Secretary Adams to be a strong and eloquent spokesman for the President's policy.

When he found his personal views on funding levels and policy matters overriden by the President's need to balance our transportation spending with the overall Federal budget, Brock was insistent that we should keep the DOT budget at or near the President's request. We have done that each year that I have chaired the subcommittee and I hope to be able to do so this year.

Brock Adams will be sorely missed in the coming months, and I hope he will keep in close touch with those of us who have responsibilities on transportation issues as legislation is moving through the Senate. The President will not easily find a successor to Brock Adams who is dedicated, enthusiastic and able to do the job. It is important that the momentum that Secretary Adams and the administration have obtained on many important transportation issues not be lost at this very critical time in our Nation's struggle to become more energy independent and as we attempt to help control inflation through wiser transportation priorities and less burdensome regulatory policies.

In the Congress and the Cabinet, Brock Adams has been a man of conscience, a dedicated American who has served his country with distinction. I am proud to call him my friend.

CONCLUSION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EXPORT ADMINISTRATION ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of S. 737 which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 737) to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the right to engage in commerce.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is amendment No. 340.

Who yields time?

Mr. STEVENSON. Mr. President, I ask that this statement be taken from the time on the bill and not on the amendment that is now pending.

The ACTING PRESIDENT pro tempore. The Senate has that right. It will be.

Mr. STEVENSON. Mr. President, S. 737 is necessary to extend and revise authority to control U.S. exports and to authorize appropriations to meet the expenses of administering export controls. The existing authority which is provided in the Export Administration Act of 1969 expires September 30.

S. 737 would establish a new export control statute, the Export Administration Act of 1979, superseding the 1969 act. S. 737 incorporates many provisions of the 1969 act, but also makes extensive improvements to insure that export control authority is exercised with maximum efficiency and controls confined to those necessary to achieve important national purposes.

Mr. President, this legislation is one product of a year long study of U.S. export policy by the Subcommittee on International Finance. The subcommittee report based on that study concluded that:

Delays in export licensing decisions * * * are a significant cause of U.S. export loss. * * * Because U.S. licensing policy is often unclear, foreign purchasers come to regard the U.S. as an unreliable supplier. In areas of rapidly expanding technology, the control levels should be revised more frequently. Too often the Commerce Department responds to a rapidly evolving state of the art around the world only when deluged by license applications which should not have been required in the first place. If the Executive departments will not devise a more efficient way to provide essential monitoring and control without excessive disruption of U.S. exports, Congress must.

Mr. President, the U.S. trade deficit continues to set records. The United States has now run a trade deficit each month for the past 36 months. There is no end in sight, and imported oil is only part of the problem.

The United States is becoming less competitive at home and abroad. In 1975 the Nation had a $20 billion trade surplus in manufactured goods; last year it ran a $5.8 billion defict. Other nations more dependent on imported oil run trade surpluses. They go all out to beat us, and they win.

A factor in declining U.S. competitiveness is Government restriction of U.S. exports. U.S. exporters face export license controls, antitrust, antibribery, antiboycott, antinuclear proliferation, human rights, environmnteal reviews and other restrictions not faced by foreign competitors. We are the only nation in the world which treats exports as a favor to bestow upon worthy foreigners rather than an essential contribution to our economic well-being.

S. 737 is an important step in the development of a national export policy. It can become a symbol of our willingness to revamp our laws to meet the competitive challenge without sacrificing other major objectives.

Mr. President, S. 737 would establish an export control policy which protects vital security and foreign policy interests without unnecessarily restricting U. S. exports. It would reduce the number of controlled items and focus national security controls on technologies and related products critical to military systems. It would set criteria which the President must consider before imposing export controls for foreign policy purposes. It would reduce paperwork by establishing licenses under which multiple shipments could be made to a specified purchaser for a stated end use. It would expedite interagency review by requiring agreement in writing on types and categories of applications requiring interagency referral and setting a 30-day deadline for returning comments to the Commerce Department. It would insure final decisions on all applications within a maximum of 180 days.

The bill is lengthy. I will not take up the time of the Senate to go through each provision. Senate Report 96–169 contains a thorough description of the provisions of S. 737. I will mention only a few key provisions.

S. 737 requires that export controls maintained for national security purposes be reviewed by the President every 3 years in the case of controls maintained cooperatively with other nations and every year in the case of unilaterally maintained controls. Priority in administering such controls is to be given to preventing exports of militarily critical goods and technology, and the Secretaries of Commerce and Defense are required to review and revise such controls to insure they are focused upon and limited, to the maximum extent possible consistent with the purposes of the bill, to militarily critical goods and technology and the mechanisms through which they may be effectively transferred.

As the committee noted in its report on S. 737:

The number of license applications received by the Department of Commerce is expanding rapidly, nearing an annual level of 80,000 applications per year. The increased applications reflect a failure to prune the control lists and to concentrate licensing requirements where they can be most effective. The Defense Science Board Task Force on Export of U.S. Technology recommended, in a report released February 27, 1976, that export controls for national security purposes be focused upon retarding transfers of technology which could significantly enhance the military capacity of potential adversaries. The Task Force report suggested that other controls, particularly on end products, could be reduced once effective controls on the transfer of militarily critical technology were in place. Three years after the Task Force report, a critical technology approach has still to be devised and implemented. Failure to implement the Task Force report could result in controls which limit some exports unnecessarily while controlling insufficiently other exports which

could be seriously detrimental to national security.

Mr. President, S. 737 provides the statutory basis for implementing the critical technologies approach recommended in the report of the Defense Science Board Task Force.

S. 737 also sets forth criteria to be considered by the President when imposing export controls for foreign policy purposes, including:

First. Alternative means to further the foreign policy purposes in question;

Second. The likelihood that foreign competitors will join the United States in effectively controlling the exports in question;

Third. The probability that such controls will achieve the intended foreign policy purpose;

Fourth. The effect of such controls on U.S. exports, employment and production and on the international reputation of the United States as a supplier of goods and technology;

Fifth. The reaction of other countries to the imposition or enlargement of such export controls by the United States; and

Sixth. The foreign policy consequences of not imposing controls. The bill provdies that the President shall report to Congress his reasons for imposing such controls, and that such controls must be reconsidered annually.

No aspect of U.S. export controls policy received sharper criticism during committee and subcommittee hearings than controls maintained for foreign policy purposes. Former Under Secretary of State George Ball testified that "such controls should be used very sparingly."

Former Under Secretary of Defense David Packard testified:

> I do not believe these unilateral constraints are effective in changing the policies or the behavior of the targeted countries. In fact, I think the only thing such policies do is to guarantee the loss of business for the United States.

Former Secretary of State Dean Rusk testified that the United States should reconsider its attitude toward the use of export controls for foreign policy purposes:

> We should begin by reminding ourselves that trade occurs when it is of benefit to both parties. When we refuse to trade for security or political reasons, we should recall that we are depriving ourselves of the benefits of that trade, whether in the form of convertible currencies or goods and services which we ourselves need for our own national life. I would strongly advise against a drift into self-imposed economic isolationism by weighing trade in terms of approval or disapproval of the institutions of other trading nations.

Uncertainty over U.S. policy toward the use of export controls for foreign policy purposes has discouraged potential exports and tarnished the reputation of U.S. exporters as reliable suppliers to foreign countries. Controls applied for foreign policy reasons often restrict the export of goods and technology freely available from foreign suppliers, often from our allies. Yet there is no evidence that the effects of such controls are receiving due consideration, nor that efforts are being made to obtain agreement by our allies to adopt similar restrictions on their exports.

S. 737 requires that foreign availability of goods and technology subject to export controls be determined both with respect to controls maintained for foreign policy purposes and those maintained for national security purposes. If the goods or technology are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, the President shall not impose export controls unless he determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States. If the President decides to maintain export controls despite foreign availability, he is required to initiate negotiations with other governments to try to remove such foreign availability.

S. 737 would not interfere with the President's ability to respond immediately to foreign policy crises. The President could decide that one, several, or all of the factors listed in section 4(a)(2)(C) and referred to in section 4(a)(2)(D) were not relevant to imposing export controls in a given situation. He could also impose export controls before it is known whether foreign availability, as referred to in section 4(a)(2)(E), exists.

Moreover, controls could be continued if they were inconsistent with these factors or if it later became apparent that foreign availability does exist. These factors are to be taken into consideration, but they are not conditions which must be met. Controls may be continued notwithstanding foreign availability if the President determines that failure to do so would be detrimental to U.S. foreign policy.

S. 737 assigns clear responsibility for assessing the foreign availability of goods and technology subject to U.S. export controls. A report by the General Accounting Office notes that no one in the executive branch is given responsibility to determine whether products or technology are freely available to controlled countries from our foreign competitors. Each agency makes its own assessment, leading to needless duplication of effort and delays in license reviews.

The GAO recommended that foreign availability be assessed by a single office drawing as necessary on expertise and information from other Federal agencies. Our bill requires establishment of an Office of Foreign Product and Technology Assessment in the Department of Commerce. This office could call upon any Federal agency for assistance in assessing foreign availability, and would also receive information from the business sector. Centralizing responsibility for foreign availability assessments should yield substantial savings in administrative expense and license processing time.

S. 737 authorizes the President to delegate authority under the act to such departments, agencies, or officials as he chooses, but not to any official of any department or agency whose head is not appointed by and with the consent of the Senate. The committee intends the provision to apply in particular to the National Security Council which is reported to have been assigned a role in formulating export control policy and in reviewing particular export license applications. The expanded role of the NSC staff in export licensing and export control policy has frustrated effective congressional oversight and diffused responsibility for export controls in the executive branch.

Mr. President, former Secretary of State Dean Rusk made the following comments before the Banking Committee last year:

> Mr. Chairman, as far as the National Security Council staff is concerned, I think it's of the utmost importance they remain in the staff capacity and they not be injected into the line responsibility of command . . .
>
> The National Security staff does not carry major statutory responsibilities as do Cabinet officers. They do not appear regularly down here before committees and subcommittees of the Congress. They do not hold press conferences in which they can be interrogated regularly by the press. Theirs is a staff responsibility.

S. 737 is intended to discourage the assignment of export licensing responsibilities to the NSC.

S. 737 contains all the antiboycott provisions of the Export Administration Act of 1969, as amended, and makes no changes in those provisions. The committee received letters from major business organizations and Jewish groups recommending that no change be made in the boycott provisions this year. This bill does not amend the antiboycott provisions of the act as implemented by regulations issued by the Commerce Department.

S. 737 provides a 4-year extension of export control authority from September 30, 1979, to September 30, 1983. Congress will have an opportunity each year to exercise effective oversight of export control policy and to make statutory changes, because S. 737 requires that appropriations for administering the act be authorized annually.

Mr. President, S. 737 would streamline U.S. exports control, eliminating unnecessary restrictions on U.S. exports while providing more effective control over exports which truly threaten our national security. The approach adopted in the bill is realistic; it recognizes that the United States is no longer the world's only producer of advanced technology; it recognizes the intensity of foreign competition and the impossibility of preventing the spread of technology; it recognizes that truly effective export controls must be multilateral controls. The United States must continue to work in cooperation with NATO allies and Japan to design and implement an export control policy which effectively serves our mutual security interests, without needlessly sacrificing our economic well-being. S. 737 provides the foundation for an export control policy to serve all our principal interests, neglecting none.

Mr. HEINZ. Mr. President, I yield myself such time as I may consume from the bill.

Mr. President, I join my distinguished colleague, the senior Senator from Illinois, in urging passage of the Export Administration Act of 1979, S. 737. This bill is a significant improvement over its predecessor, the 1969 act. It incorporates many of the recommendations for improvements made by the General Accounting Office's two extensive reports on the export licensing process, the National Governors' Association's special task force report on this subject, and numerous expert private witnesses, who detailed the defects of the current system during the four hearings we held on this subject.

Mr. President, when the original Export Control Act legislation was enacted after World War II, America was the technological leader in the world and could maintain unilateral controls on much of its technology. This is no longer the case. We are now in a highly competitive international trading arena. During the past decade alone, for example, U.S. exports as a percentage of gross national product increased from approximately 4 percent to 7 percent, while our share of total world trade nonetheless declined.

We still have the greatest absolute volume of exports with $143 billion in 1978, but increasingly our trading takes on the pattern of a less developed country, with agricultural raw materials acounting for an ever greater percentage of the volume. Our defeated enemies, Germany and Japan, have surpassed our share of the world market in manufactured goods. Our once substantial lead in technology has been overtaken in many significant areas of medium and high technology—machine tools, power turbines, reactors, jet aircraft, naval vessels. Foreign competitors from Europe and Japan export goods that approach or surpass the best American designs. Thus, in a good many cases, countries denied American goods, or countries which experience inordinate delays in obtaining those goods, can easily find them elsewhere. They will not pay a double price—both economic and political—for U.S. exports.

Mr. President, in recent years there has been a dangerous decline in the ability of U.S. industry to compete in the world marketplace. We had a trade deficit which totaled $31 million in 1977, $34 billion last year, and which could reach the same abysmal level in 1979 despite the significant devaluation of the dollar which has taken place in the meantime. S. 737 is a crucial step in the development of a national export policy. Our national security depends not only on our military hardware and our men under arms but also on the strength and the vitality of our economy.

S. 737 strikes a delicate balance between controlling the transfer of technologies which might convey some military advantage to potential enemies while at the same time attempting to enhance the export of U.S. manufactured products to provide jobs for American workers and to assist the U.S. balance of payments. The bill, as reported, offers a rational basis for a positive export program, with adequate safeguards for national security.

Mr. President, I urge my colleagues to reject any attempts to attach crippling amendments to S. 737. One such amendment which has been proposed would create a cumbersome validated licensing procedure for trade with even our closest allies, such as Britain and West Germany, where none existed before. The case for such controls is obscure at best, and through this action we may very well undermine whatever hope we have for strengthening the collective efforts to control technology transfer. This type of arbitrary, unilateral control at this time is both unnecessary and unwise. Moreover, it is likely to cost U.S. exporters billions of dollars in lost business in their strongest product area, high technology, with no palpable increase in security resulting from this futile exercise in self-denial.

Adding more countries and goods to the validated licensing process is likely to be counterproductive to the goal of preventing technology transfer, an objective which I share with authors of such amendments. But the consequence would be an additional licensing burden of undefined dimension, with no assurance that our allies would apply equivalent controls. For example, while Japanese semiconductor manufacturers are seizing Asian and European markets, U.S. companies will be waiting months for validated licenses to be approved. Moreover, it is likely that more dual use technology and equipment will slip through the bureaucratic cracks if we increase the paperwork burden.

Mr. President, I urge my colleagues to consider the fact that our Nation's edge in high technology—and many other industrial goods—is a precious resource for jobs and capital growth which we must aggressively promote in foreign markets. Each time a license is denied for insufficient cause, or delayed to the point where customers are discouraged and begin to look elsewhere, that precious resource is squandered. Worse still, there is a multiplier effect, in which potential exporters lose patience with the export licensing process and potential importers of U.S. goods turn to other, more reliable sources for their needs, in some cases despite the U.S. edge in quality, technology, or price.

I believe U.S. citizens have a right to engage in international as well as domestic commerce unfettered by government restriction unless the Nation's vital interests are affected. Present controls on U.S. exports are more stringent than is consistent with the right of citizens, the national interest, or commonsense.

S. 737 mandates annual review of export controls and requires consideration of foreign availability—which applies at present only to national security controls. Before imposing new controls for foreign policy reasons the President would have to consider the economic costs, the reaction of other countries, and alternative ways to further U.S. foreign policy. The President would be required to report his conclusions to the Congress and the public.

Mr. President the message I have received from exporters is not that they are asking for a removal of restraints. Rather, what they want—and what this S. 737 provides—is a streamlined and predictable export control policy, which can be used as a reliable guide to marketing and long-term commitments.

I urge my colleagues to reject crippling support.

The ACTING PRESIDENT pro tempore. Time continues running equally against both sides.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Charged to the Senator's time on the bill?

Mr. HEINZ. I withdraw the request.

The ACTING PRESIDENT pro tempore. Time continues to run equally against both sides.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum and that the time be charged equally to both sides, if that is all right with the majority manager.

The ACTING PRESIDENT pro tempore. Does the Senator wish time to run against the bill or against the amendment?

Mr. HEINZ. Against the bill.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEWART. Mr. President, I ask unanimous consent that the Jackson amendment be temporarily laid aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 422

(Purpose: To revise the petitioning process in section 7)

Mr. STEWART. I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. STEWART) proposes an unprinted amendment numbered 422.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 73, lines 24 and 25, strike out ", any sector thereof, or any industry or substantial segment" and insert in lieu thereof "or any sector".

Beginning with page 92, line 24, strike out all through page 95, line 5, and insert in lieu thereof the following:

SEC. 7. (a)(1) Any entity, including a trade association, firm, or certified or recognized union group of workers, which is representative of an industry or a substantial segment of an industry which processes any material or commodity for which an increase in domestic prices or a domestic shortage has or may have a significant adverse effect on the national economy or any sector thereof may transmit a written petition to the Secretary of Commerce requesting the imposition of export con-

trols, or the monitoring of exports, or both, with respect to such material or commodity.

(2) Each petition shall be in such form as the Secretary of Commerce shall prescribe and shall contain information in support of the action requested. The petition shall include information reasonably available to the petitioner indicating (A) that there has been a significant increase over a representative period in exports of such material or commodity in relation to domestic supply, and (B) that there has been a significant increase in the price of such material or commodity under circumstances indicating that the price increase may be related to exports.

(b) Within 15 days after receipt of any petition described in subsection (a), the Secretary of Commerce shall cause to be published a notice in the Federal Register. The notice shall include (1) the name of the material or commodity which is the subject of the petition, (2) the Schedule B number of the material or commodity as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (3) notice of whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material or commodity, and (4) notice that interested persons shall have a period of 30 days commencing with the date of publication of such notice to submit to the Secretary of Commerce written data, views, or arguments, with or without opportunity for oral presentation. At the request of the petitioner or any other entity described in subsection (a)(1) with respect to the material or commodity which is the subject of the petition or at the request of any entity representative of the producers or exporters of such material or commodity, the Secretary shall conduct public hearings with respect to the subject of the petition, in which event the 30-day period shall be extended to 45 days.

(c) Within 45 days after the end of the 30-day or 45-day period described in subsection (b) or within 75 days of publication of the petition in the Federal Register, whichever is the later, the Secretary of Commerce shall—

(1) determine whether to impose monitoring or controls or both on the exportation of such material or commodity; and

(2) publish in the Federal Register a detailed statement of the reasons for such determination.

(d) Within 15 days following a decision under subsection (c) to impose monitoring or controls on the exportation of a material or commodity, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within 30 days following the publication of such notice, and after considering any public comments, the Secretary shall publish and implement final regulations.

(e) For the purposes of publishing notices in the Federal Register and the scheduling of public hearings, the Secretary shall have the authority to consolidate petitions and responses thereto with respect to the same or related commodities.

(f) If a petition has been fully considered under this section and a notice has been published with respect to a particular commodity or group of commodities and in the absence of significantly changed circumstances, the Secretary shall have authority to determine that a petition for monitoring or control of such commodity or commodities does not merit the full consideration mandated under this section.

(g) The procedures and time limits set forth in this section shall take precedence over any review undertaken at the initiative of the Secretary.

(h) The Secretary shall have the authority to impose monitoring or controls on a temporary basis during the period following the filing of a petition under subsection (a)(1) and the Secretary's determination under subsection (c) if the Secretary deems such action to be necessary to effectuate the policy set forth in section 3(2)(C) of this Act. If such authority is used the Secretary shall afford interested persons an opportunity to submit written comments thereon and such comments shall be considered by the Secretary in making the determination required under subsection (c) and in the development of any final regulations.

(i) The authority under this section shall not be construed to affect the authority of the Secretary of Commerce under section 4 (e)(1) or any other provision of this Act.

(j) The provisions of this section shall not apply to any agricultural commodity.

Mr. STEWART. Mr. President, I will speak very briefly to the amendment.

This amendment, which would be known as section 7 of the bill, was originally offered by Senator HEINZ and myself during the Banking Committee mark up of this legislation. It establishes a petitioning process in the procedure in the Department of Commerce for the filing of petitions seeking the monitoring or control of certain materials or commodities. It provides for interested parties from both sides to present their views in a public hearing and it lays out a specified time frame for a final decision from the Department of Commerce to be published in the Federal Register. In short, it is a sunshine amendment which attempts to bring a measure of fairness and openness to a process, which for too long has been made behind closed doors without the benefit of free and open public debate.

The amendment I am offering today represents a balanced revision of the original section 7. We have sought to tighten the requirements a petitioner must meet and have included a more specific outline of what information the petition itself must include.

An important addition to the section is a new subsection which specifically excludes agricultural commodities from participation in the petitioning process. The reason for this addition is that regardless of the petitioning process an agricultural commodity might have gone through under the provisions of this section, the final decision of whether to implement monitoring or controls on such commodities would still remain with the Secretary of Agriculture under existing law. Because the petitioning process in section 7 applies only to the Department of Commerce, it is only fair to eliminate Agricultural commodities from the petitioning process altogether.

The amendment I am offering today has incorporated certain recommendations of the Department of Commerce as well as suggestions of Senator STEVENSON, and I am pleased that they have removed their objections to the amendment.

It is my understanding that the distinguished floor managers of the bill have agreed to accept the provisions of this amendment, and with that I yield to the Senator from Illinois and the Senator from Pennsylvania.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. STEVENSON. Mr. President, I thank the distinguished Senator from Alabama for his cooperation and for the contribution he has made to this bill.

The amendment which he now offers will make it clear that new procedures which permit petitions for export controls do not include agricultural commodities, and those procedures are clarified by this amendment. I think it is a good amendment, and I am happy to accept it.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, if the Senator will yield, I have examined the amendment and find it consistent with the spirit of the bill. Indeed, I think it improves the bill, and I think the Senator from Alabama is making a very good contribution, and I would like to see the committee accept it.

Mr. STEWART. Mr. President, before I yield back my time I want to thank the Senator from Illinois for his contribution to the amendment and for his consideration for me and those I represent in proposing this amendment.

I thank the Senator from Pennsylvania for his consideration.

I yield back the remainder of my time on the amendment.

The ACTING PRESIDENT pro tempore. Is all time yielded back? The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. STEWART. I thank the distinguished floor managers.

AMENDMENT NO. 340

The ACTING PRESIDENT pro tempore. The question recurs on the amendment of the Senator from the State of Washington. Who yields time?

Mr. JACKSON. Mr. President, I ask unanimous consent that the name of my distinguished colleague from Indiana (Mr. BAYH) be added as a cosponsor to amendments 340 through 352 to S. 737.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, amendment No. 340 would amend the bill to give the Secretary of Defense primary responsibility for identifying the list of goods and technologies subject to national security controls. Under present law the Secretary of Commerce has this responsibility, and the Secretary of Defense has a role as consultant. The bill would confirm the status quo, despite the fact that the Department of Commerce is unqualified to carry out this important task. Under its administration, the export control process is in total shambles, as acknowledged by Larry Brady, the Deputy Director of the Office of Export Administration, in testimony before a House subcommittee. As a result of its mismanagement and failure to develop a coherent export control policy, the Department of Commerce is too overburdened with paperwork involved in processing well over 70,000 license applications per year. Commerce is too preoccupied with the movement of paper within the statutory deadlines to make the necessary reappraisal of our export controls.

Mr. Brady also acknowledged in his

House testimony what has long been known by persons familiar with the export control system—that the Department of Commerce's judgments on license applications are not reliable because of Commerce's very strong trade promotion focus. Despite its trade promotion bias, however, the Department of Commerce has failed to take any initiatives to effect a comprehensive relaxation of controls on noncritical end products.

Recent events further seriously call into question the judgment of the Department of Commerce. There are confirmed reports that the Kama River truck plant in the Soviet Union, built with hundreds of millions of dolars of American technology and equipment, is turning out diesel engines for military vehicles. Deputy Director of OEA, Larry Brady, told a House subcommittee that this evidence demonstrated the ineffectiveness of safeguards and end-use restrictions in preventing diversion of U.S. technologies and goods to military use by the Soviet Union.

In the past few days I received an unsolicited letter from the Secretary of Commerce making the preposterous suggestion that the military use of the Kama plant by the Soviets did not constitute a "diversion" of the plant to military use and, therefore, no violation of U.S. export controls had occurred and the Department of Commerce was not guilty of lack of vigilance. This letter reads like a legal brief in defense of the Russian's gross misconduct, especially when it asserts that there is no evidence that the Russians specifically agreed not to divert the plant to military use. The Secretary also makes inappropriate use of a memorandum by Mr. Brady to support her assertion that there was no such evidence. Mr. Brady has so noted in a letter to the Secretary of Commerce. His letter points out that it was the clear understanding of the U.S. Government, including the Department of Defense, that the plant would produce general purpose trucks for industrial and agricultural use. Mr. Brady correctly points out that the issue facing the Commerce Department is not whether diversion has occurred—that is indisputable—but whether Commerce will deny future licenses to further support the Kama plant and cancel outstanding licenses. The Secretary of Commerce is clearly creating legalistic and sophistical obstacles to rationalize its past nonfeasance and reluctance to take present action which would cut off further exports to the Kama plant—an action which it apparently perceives to be incompatible with its trade promotion function.

The extent to which the Department of Commerce is willing to go to prevent taking remedial action against the Soviet Union is best illustrated by the fact that the new Acting Director of OEA asked Mr. Brady to consider changing his testimony to the House subcommittee because it was causing the administration problems in dealing with the amendments that I and several of my colleagues have sponsored.

Mr. President, these actions by the Department of Commerce underscore its inability to grasp the realities of protecting national security and do little to commend it for the leading role in implementing an export control approach upon which the future security of our Nation so vitally depends.

Mr. President, I ask unanimous consent that the letter to me from Secretary of Commerce and Mr. Brady's letter to the Secretary be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF COMMERCE,
Washington, D.C., June 18, 1979.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: In the course of testimony before the Subcommittee on Research and Development of the House Committee on Armed Services, the Deputy Director of the Office of Export Administration, Lawrence J. Brady, testified that trucks produced at the Kama River truck factory in the Soviet Union were being "diverted" to military use in violation of U.S. export control restrictions.

That testimony has led to newspaper stories implying that Soviet military capability has been helped as a result of an apparent lack of vigilance by this Department. This is in error.

As you know, our nation no longer enjoys a favorable balance of trade, and thus the promotion of exports is more important than ever before. Even so, the national security is paramount, and we must be careful that we do not export materials and technology that would advance at our own expense the military capabilities of other nations. To walk this line is a difficult and delicate job. That is why it is essential that issues which may arise be discussed on the basis of accurate information.

First, there was no "diversion" in connection with the Kama River truck factory and, therefore, no violation of U.S. export controls.

A diversion occurs only when end-use restrictions pertaining to a license are violated. The Kama River truck plant licenses were issued during the Nixon Administration and contained no restrictions which we can identify limiting the use of the trucks and engines produced at the factory. Accordingly, military use of the trucks or engines produced at Kama River would not constitute a diversion or violation of the law because the licenses contained no restrictions pertaining to the use of those trucks or engines. Nor would any military use of Kama River trucks or engines entail diversion of the foundry's computer, because limitations on the use of the computer pertained to use of its computing capacity, not to use of products manufactured at the foundry. Several of the licenses contain technical conditions which have nothing to do with limitations on the use of the factory output.

This view is confirmed by the attached memorandum from Mr. Brady which concludes that a thorough review, which was requested by Senior Deputy Assistant Secretary Stanley J. Marcuss, has failed to disclose the existence of any document which could be construed as a limitation on the use of the factory output for civilian as contrasted with military purposes. Two exceptions mentioned in the memorandum are not relevant to the Kama River plant.

Second, at the time the licenses were issued, the Nixon Administration knew of the possibility that Kama trucks or engines could be used by the Soviet military. This factor apparently was fully considered before the decision was made. Thus it cannot be said that this matter was overlooked or that the export control system failed to ensure that all relevant factors were considered.

Finally, contrary to some press reports, Mr. Brady has not been "demoted" nor has any action been taken against him. He retains his position as Deputy Director of the Office of Export Administration, a position he has held for the last five years. Because of his position as Deputy Director, Mr. Brady served as Acting Director of the Office of Export Administration in the period between the retirement of the previous director and the appointment of the new one.

I hope this will lay to rest the misinformation which has recently surrounded this subject.

Sincerely,

JUANITA M. KREPS,
Secretary of Commerce.

Enclosure.

[From the U.S. Department of Commerce]

Memorandum for Robin B. Schwartzman, Deputy Director, Bureau of Trade Regulation.

From: Lawrence J. Brady, Deputy Director, Office of Export Administration.

Subject: Kama River Case File.

On June 22, 1979, pursuant to your request, I thoroughly reviewed the relevant export license applications and supporting documents submitted by various U.S. firms seeking Department of Commerce authorization to export commodities to the USSR's Kama River Project. The results of this examination, with two exceptions, failed to disclose the existence of any document which could be construed to represent an agreement between parties or assurances as to the specific application of products, i.e., military vs. civilian, in the truck manufacturing process.

The exceptions are found in license applications case numbers 813124 and S49801. Case number 849801 contains a "letter of protocol" between Mack Trucks, Inc., and a Soviet trade delegation indicating that the trucks assembled at Kama River would be used for agricultural and industrial purposes.

A copy of the protocol is attached.

With regard to the protocol, I am concerned that because Mack Truck pulled out of the deal after signing the protocol, which you will note also included other parties, including SATRA, it may not be considered relevant to subsequent licensing actions. I intend to go through all of the license applications to see whether or not we referenced the protocol in subsequent license actions. I think we did. I am also sending you separately a copy of the entire "front office" file on KAMA.

Also attached is a June 14 memorandum Dick Isadore prepared on the basis of a quick review of all license applications for the Kama River plant.

Attachments.

Memorandum for Juanita M. Kreps, Secretary, Department of Commerce.

Subject: Your letter to Chairman Ichord of July 18, 1979.

In your letter to members of Congress on the subject of diversion from the Kama River Truck plant, you have indicated that my testimony to the effect that trucks produced at Kama were being diverted to military use was in error. You also indicate that stories implying that Soviet military capabilities have been helped as a result of an apparent lack of vigilence by the Commerce Department are in error.

You base this statement on your definition of diversion as an activity which only occurs when end-use restrictions pertaining to a patricular license are violated. You further state that the Kama River licenses contained no restrictions on the use of the trucks and engines produced at the factory. Therefore, you conclude, military use of the trucks is not diversion.

I believe this definition of diversion is excessively narrow. Diversion occurs when the product exported, or the product manufactured from the technology exported, is used in a manner contrary to the end-use representation made to the U.S. Government at the time of licensing. We know this has occurred at the Kama River Truck plant.

The issue before the Department is not one of prosecuting a "violator" as in a situation when an exporter illegally exports, but rather the issue is what position the Commerce Department will take on pending and future license applications for the Kama River plant.

Now, exactly what kind of end-use representations were made to the U.S. Government at the time the licenses were granted? Basically, there were three kinds. First, the files reveal that in high-level government to government discussions the Kama project was discussed. Second, the U.S. Government received many end-use statements attached to license applications to the effect that the end use was to manufacture "trucks." Third, a protocol had been signed in May of 1971 between the USSR and Mack Truck, Satra Consultant Corp., and the Greg Gary Intl. Corp. stating that the Kama River Truck plant was to produce eight-to-eleven-ton trucks for agricultural and industrial use in the USSR.

How reliable are these representations of end use? Taken as a whole, there is no doubt that the U.S. Government was led to believe that these trucks were general-purpose to be used for agricultural-industrial use.

You refer to my June 22 memorandum to support the position that no distinction was made between military and civilian use in the licenses. My memorandum is quoted out of context to support a much broader conclusion than I intended. I was asked specifically to search the files to determine whether the words "civilian" or "military" appeared in any document. I had this done and made a preliminary report.

The Government issued licenses on the basis that general purpose trucks would be produced at Kama. We would not have wanted to build a plant for military products. The Mack Truck protocol terms, which apparently became null and void in September, 1971 after Mack Truck pulled out of the project, specifically stated that the trucks to be built were for agricultural and industrial uses. That protocol helped form the context in which the U.S. Government made its decision to approve licenses for the Kama River plant in 1971 and became void only after the government had already made some licensing determinations.

Even if there is a question about what end-use conditions or restrictions were applied in this case, we would not want such a situation to be repeated again. Commerce, therefore, now has the responsiblity to assure that no future licenses are issued which further support the plant.

With regard to the conclusion that no diversion of the Foundry computer has occurred, I believe this is open to serious question. As I have said before, the wealth of evidence presented to the Government was that the entire facility was to produce civilian trucks. The Foundry is the heart of the facility, and the computer essentially controls the Foundry. According to your definition, computer time is only being diverted if it were to be programmed to guide an ICBM.

Next, I would like to address the matter of my demotion. I was not replaced by a new permanent Director, but by a new Acting Director. Mr. Kent Knowles had to assume active military duty when appointed as Acting Director and was absent from the office for two weeks. There was a real question as to who was in command and by whom official documents should be signed. I was informed the next day to continue to sign everything and deal with all office matters, but as Deputy instead of Acting Director.

Furthermore, I had been repeatedly promised by the Personnel Office that the Director's job would go through normal personnel procedures and be open to competition, and that I would have an opportunity to compete for it. This procedure was not carried out.

In summary, I believe your letter confirms my testimony on the export control system. It is in essence, a "shambles". We have before us the fact that the Soviets are diverting trucks to military use, when end-use representations made to the U.S. Government signified that they were to build civilian, general-purpose trucks. We do not deny that the Kama Factory is engaging in military activity, but through a legalistic and bureaucratic definition of diversion, we take the position that this is not diversion. We do not even indicate what position we will take in the future.

This all points up what I said in my testimony, namely that:

(1) The Soviets are diverting U.S. equipment and technology whenever they have the ability or the need to do so;

(2) There are no adequate safeguards against diversion;

(3) The end-use certification basis upon which the export control system functions presently is meaningless.

If your letter indicates that the good faith reached between the U.S. and the U.S.S.R. on this project was meaningless, this will not bode well for the SALT II Treaty in which we are told that verification rests partly on good faith between the parties and the "spirit" of the agreement.

Lastly, I was not asked to participate in the meetings which resulted in preparation of the letter which you signed. I wished I had been asked.

Mr. Knowles did approach me yesterday afternoon however, and asked me whether I would consider reviewing my testimony and perhaps changing my statement on diversion, because he said my statement was causing the Administration problems. He was referring, he said, to the amendments Senator Jackson intends to propose to the Stevenson Bill. I told him that trucks were going to the military at Kama and that regardless of the semantics one used, I believed that was diversion because it was contrary to the intended end-use.

Because your letter and a copy of my June 22 memorandum (taken out of context) has been sent to the Hill, I am making this memorandum, along with the final report I was preparing in answer to the Deputy Bureau Director available as well.

Sincerely,

LAWRENCE J. BRADY,
Deputy Director,
Office of Export Administration.

JULY 19, 1979.

Memorandum for: Robin Schwartzman, Deputy Director, Bureau of Trade Regulation.

From: Lawrence J. Brady, Deputy Director, Office of Export Administration.

Subject: Kama River.

This statement constitutes my final report on my review of the Kama River Truck Factory export licenses and is my response to your July 12th note to me. I feel bound to write this statement because I have been omitted from all meetings discussing this case. I strongly disagree with your draft memorandum which concludes that no conditions whatever were attached to the Kama export licenses, and that no diversion of U.S. equipment to Soviet military use has occurred. I strongly object to the use of a memorandum of mine to support these conclusions.

I feel this case clearly involves the Commerce Department's responsibility to protect U.S. national security as required by the Export Administration Act of 1969, as amended. Resolution of the diversion issue calls for a judgment based on the U.S. Government's commitment to enforce that Act.

In connection with the Act, as a part of its export control policy, the Government conceived the end-use/end user system including consignee statements and "safeguard conditions" as a warning signal to go off if U.S. exports were being used to contribute significantly to the military activity of its potential adversaries. Presumably, the U.S. Government was sincere in its commitment to take action if this "warning signal" were sounded, and to apply sanctions if improper use were made of its exports of equipment and technology to controlled designations.

The first test of such a safeguard system is verification or confirmation of the use of U.S. exports to significantly contribute to the military activity of a potential adversary. I have testified that such verification is almost impossible, and therefore the first test of the system always fails, not only due to secrecy, but because of the conflict of interest for businessmen expected to report on such use. Nevertheless, in the Kama case, the use of U.S. equipment and technology to perpetuate a Soviet military program was reported and confirmed by U.S. intelligence sources. So, in this rare instance, the first test was passed.

The second test of the system is whether it can be enforced. That judgment should carry out the Government's responsibility to enforce the Export Administration Act as the law of the land.

End-use statement, protocols, political understandings and written conditions attached to computer licenses are all part of the imput into the judgment of whether diversion has or is taking place. In the case of Kama, the Government must make a decision. Either it will take some sanction against the consignee, the Kama River plant, (the only real sanction available is to cease further support of the plant by denying pending and future licenses) or it will avoid action by rationalizing the control process.

In the case of Kama, it is clear from the evidence surrounding the granting of licenses that the Government should exercise its judgment to enforce the Foundry Safeguards attached to the IBM computer used to run the foundry. These conditions clearly state that:

The reason for taking such action would be to clearly demonstrate that the United States no longer wishes to contribute to the on-going military function of the world's largest truck and engine manufacturing plant.

SPECIFIC FACTS ABOUT THE CASE

Having thus expressed my general assessment of the Kama case, I'd like to address your draft memorandum of July 10, 1979 to Stanley Marcuss. (See Attachment A) In your first paragraph, you misquote and misinterpret the content of my report of June 22, 1979, on Kama. You state that:

The Office of Export Administration has reviewed the files of over 175 cases identified as part of the Kama River Truck Plant complex (KAMAZ). Its reports and additional personal review support the conclusion that dedication to military use of trucks or engines produced by KAMAZ would not violate the terms of U.S. export licenses issued to companies which supplied technology and equipment for the plant.

According to this logic, if the Kama River facility were to tomorrow shift into full-scale production of tanks or armored personnel carriers, this would not constitute a

violation of the licensing conditions attached to the IBM computer. The only condition which you would have us believe is attached to the computer is that in which it is programmed for direct use in a military activity, such as guiding an ICBM.

The Office of Export Administration's review did not support that conclusion. In my June 22 memorandum (See Attachment B), I reported that our review of the applications had produced two documents which could be construed as agreements between parties as to the specific application of the products of the truck manufacturing process. These were two copies of a protocol signed in 1971, which had been attached to two license applications.

I clearly stated in my fourth paragraph that, "I intend to go through all the license applications to see whether or not we referenced the protocol in subsequent license actions." This was obviously not my final report on safeguard conditions in the Kama case, and it did not support the conclusion you drew in the first paragraph of your memorandum to Mr. Marcuss, stated above. My report, in fact, implied that certain terms of our licensing policy (which included any protocol which may have applied), had been violated.

THE PROTOCOL

The May protocol formed the control context in which the U.S. Government made its decision to approve licenses for the Kama River Plant. Before Henry A. Kissinger, Nixon's National Security Advisor, ordered approval for further Kama licenses, with stipulation for White House review, a series of discussions took place between Soviet and U.S. policy makers. In addition, a protocol was signed which applied to MACK Trucks, Inc., Greg Gary Int'l. Corp., Satra Consulting Corp., and the Soviet Union. The protocol was signed on about May 11, 1971 and the first licenses for Kama were approved in August. It was not until September 16 that MACK Trucks withdrew from the transaction and by the terms of the protocol, apparently became void. The protocol understanding, was a viable instrument at the time license applications were being reviewed in the interagency system.

The protocol stated that:

Mack Trucks, Inc. later did not fulfill its contract with the Soviet trade delegation, but some of the other parties to the protocol went on to receive licenses for the sale of equipment to the Kama River Truck factory.

In your memorandum, you quote Dr. Maurice Mountain as saying in a report on the computer safeguards that the United States Government never required the Soviet Union to promise not to use trucks or engines produced at Kamaz for military purposes. However, you also quote Dr. Mountain as saying that he predicated his report on the fact that the civil nature of the end-user was assumed to have been established presumably by Commerce. Dr. Mountain presumably assumed that the suitability of the plant's end product was made in 1971 when the President ordered the issuance of the first KAMAZ license. I suggest that this assumption could be made largely on the basis of the protocol and its context in U.S.-Soviet discussions on Kama.

According to your logic, however, Dr. Mountain's report assumed that the Commerce Department had already established peaceful use of the end-products, whereas in fact you say it had not. If your argument is correct the licenses were ordered approved without peaceful end-use requirements. Furthermore, just to argue in the same logic, it was certainly never stated in any understanding between parties or any document that military use of the trucks or engines was to be acceptable.

No one ever realized, either, how high the value of U.S. equipment and technology going to Kama actually was. A current tabulation shows that the U.S. licensed about 1.5 billion dollars worth of equipment and technology for the Kama factory. The actual extent of U.S. involvement in this factory's present activity must be part of the context in which decision is made.

END-USE STATEMENTS

In addition to the protocol, some of the licenses also contained end-use statements, which makes the second paragraph of your memorandum of July 10 incorrect when it states:

On the contrary, the licenses for equipment for the KAMAZ production line for which President Nixon acting through his National Security Advisor, ordered approved over a period of years beginning in 1971 contained no end-use conditions whatever.

This is incorrect. In addition to the computer conditions the end-use statements which we found attached to some licenses in the files usually stipulated that the U.S. equipment was to produce "trucks." This ordinarily leaves room for interpretation but there is no doubt that at the time the general understanding was that these statements referred to "general-purpose" trucks.

I gather also that it was this understanding that "general-purpose" trucks were to be produced at KAMAZ that led to the formulation of the licensing conditions for the computer by Dr. Maury Mountain, who according to your memorandum assumed the civil use of the factory's end-products when he wrote the conditions.

When I stated in my June 22 memorandum that no document (except the May protocol) could be found which could be construed to assure an agreement as to the "specific application of products," (Exhibit B), I did not go into the complex matter of the general-purpose trucks. Further I told you orally that my statement did not apply to the end-use consignee statements. I fully intended to amplify that report at a future date, after searching for further references to the May protocol, as clearly implied in my memorandum.

I therefore consider your memorandum to be misrepresentation of the facts pertaining to end-use statements, while I was merely stating the literal findings of my investigation to that point.

This is not a "compliance" case. Let me make that clear. The Export Administration Regulations were not written to include the "enforcement" of a controlled consignee's end-use representation under the safeguard system.

The definition of diversion is therefore different from the one which refers to a U.S. firm's unlawful shipment of an export to a consignee not stated on the consignee statement.

Rather, this is a case calling for a decision based on the enforcement of the Export Administration Act of 1969, as amended.

In sum on the basis of all the above, I suggest that your analysis and conclusions do not apply in this case. Peaceful use of the end-products produced at KAMAZ were assumed by Dr. Maury Mountain when he wrote the computer conditions. Peaceful use was also part of the understanding that end-use statements referred to "general-purpose" trucks. Peaceful use was also stipulated in the May Protocol as "agricultural and industrial use." Whether or not some officials at the time who opposed the licenses questioned the extent to which the Soviets could be held to those conditions, this Department relied on all these factors, involving end-use statements and safeguards.

Mr. JACKSON. Mr. President, the implementation of the critical technologies approach endorsed by the bill will not be realized unless independent judgments are made of the national security risks of exporting America's most sophisticated technology. The Department of Defense has expertise to carry out these reforms. The Department of Commerce—which has proven itself institutionally and philosophically incapable of developing a coherent export policy which protects national security without impairing legitimate trade—cannot be entrusted a lead role in this important undertaking.

Mr. President, I wish to say further that the amendment that is pending is a product of bipartisan effort, as reflected by the cosponsorship of the amendment by our distinguished colleagues Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. CANNON, Mr. MOYNIHAN, Mr. THURMOND, and Mr. BAYH. I hope that the Senate will agree to this amendment.

Mr. President, an amendment such as the one we have proposed is necessary if we are to turn an approach that everyone agrees is sensible into an effective instrument for balancing the requirements of national security against the requirements of international trade.

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

Mr. BAYH. Mr. President, will the Senator withhold that, and yield to me?

Mr. JACKSON. Yes; I yield to the Senator from Indiana.

Mr. BAYH. Mr. President, I compliment the Senator from Washington for his initiative in introducing this amendment. I appreciate the opportunity to cosponsor it with him.

I think the trade relationships which exist between the Soviet Union and the United States offer a good deal of benefit for the citizens of the United States, if those trade relationships are handled properly. But for the life of me I do not see why some of our corporations and some of our businessmen and women in this country should insist that we give their companies the opportunity to trade technology to the Soviet Union that, in the event of a major difference of opinion between ourselves and the Soviets, could accrue to the detriment of the United States.

The Senator from Washington has pointed out that some of this very trade has occurred; and this amendment is designed to make impossible the repetition of that practice in the future.

As chairman of the Senate Intelligence Committee, it has been my good fortune, together with the Senator from Illinois (Mr. STEVENSON), who is managing this bill, the Senator from Washington (Mr. JACKSON), who is the sponsor of the amendment, and several of our colleagues, to have had the opportunity, indeed the privilege, to examine carefully what we have had the capacity to do in intelligence.

All of us have had the opportunity and the responsibility to carefully monitor the overall defensive capability of the United States of America; and, although there are things about our defensive posture that I suppose all of us would like to see strengthened a bit, and hopefully as

time goes by in this session we can take steps to do that very thing. I have been extremely proud of the kind of work that many of our intelligence people have been doing in collecting information all over the world.

One of the major elements is that available to our military and to our intelligence is sophisticated space age technology. Yet we have a handful of people in this country who would like to open the doors and sell for profit this very critical technology, which could be all that would save this country in the event of a major confrontation.

So it is a privilege to join with the Senator from Washington to help our colleagues understand, recognizing the benefits we can have from trade with the Soviet Union—certainly many of our farmers are getting tremendous benefits from that trade—and at the same time, the Senator from Washington would put on a "safety valve" and say, "Wait just a minute; let us make sure we are not giving the Soviet Union or some other country the critical technology which is the real basis of the military strength of this country."

It seems to me utterly reasonable that we finally place the responsibility for the determination of what items and products can be effectively utilized by the military of a potential adversary with the Secretary of Defense and that is what amendment No. 340 does. In addition, this amendment makes it clear that a list will be prepared by the Secretary of Commerce subject to the authority of the Secretary of Defense to provide a full record of those critical items and technologies which will be prohibited under the act. Finally the amendment places the Secretary of Defense in a position to make a determination of foreign availability of an item or technology which might be put to military use by a potential adversary.

By making these importants changes in existing law, we are recognizing the dangers which might result in an unbridled and uncontrolled transfer of technologies to the Soviet Union. At a time when we depend more than ever before on the vast technological capability of our Nation's military to sustain our security in an age of essential equivalence, we simply must be sure that no door is left ajar in protecting our Nation's security. This is one prudent step which is probably long overdue. I certainly hope that the Senate will take that step today.

Mr. President, one of the events which prompted this amendment was the revelation that the U.S. technology provided at the Kama River truck plant is turning out diesel engines for military vehicles. This was disturbing. But what was even more disturbing was to learn that in fact, during the Nixon administration, no provision was made against end-use diversion to military purposes.

As the Department of Commerce indicated, "* * * military use of the trucks or engines produced at Kama River would not constitute a diversion or violation of the law because the licenses contained no restrictions pertaining to the use of those trucks or engines." This being the case, it is theoretically possible that if a means could be found to utilize the Kama foundry American computer to make engines for a BMP infantry fighting vehicle or other type of troop transport, there is nothing we could do because it is already too late to insist on restrictions once the technology is transferred.

This example of what can be done through the utilization of technology transfer for military purposes is, however, of much greater concern in the area of computer technology used in look-down/shoot-down radars, target discrimination and sonar capability in antisubmarine warfare, flight control technology for V/STOL aircraft, precision guidance systems in antitank guided weapons and the list goes on and on.

The late Hubert Humphrey said that he was in favor of selling to those Communist bloc countries who would be our adversary "anything they can't shoot back." It is pretty clear that the critical items and technologies which we are talking about today are things that can be shot back at us with deadly precision and destabilizing accuracies. I would hope, therefore, that the Senate overwhelmingly adopts the amendment now being considered and hope that it will put us on the road to a more coherent and rational process whereby the technologies critical to our national security are accordingly controlled by those in a position to correctly assses their military potential.

At an appropriate time during the debate on this amendment I would like to propose to the Senator from Washington an amendment that has been suggested by the intelligence community, which would protect the sources and methods that are utilized in the collection of intelligence.

I again compliment the Senator from Washington, and yield the floor.

Mr. HAYAKAWA. Mr. President, will the Senator from Washington yield me a couple of minutes? I would like to speak in support of his amendment.

Mr. JACKSON. I yield the Senator from California 3 minutes.

Mr. HAYAKAWA. Mr. President, I wish to speak in support of this amendment.

Mr. President, one of the most important things about the Soviet system is the complete suppression of freedom and personal liberty. Therefore, technological breakthroughs are most likely to occur in free countries where researchers and scientists can proceed with their own experiments, experiments of their choice.

I do not see why, when we have something of great value which is beyond the capacity of Soviet technicians and scientists to produce, we should let them have free access to it at our own cost and at our own peril, especially in the case of all of that equipment which the Senator from Indiana has mentioned which has to do with the procuring of intelligence and military information, and which also has to do with the development of further armaments.

I am very, very much in support of our not giving our technology away to others.

I am happy to support the amendment of the distinguished Senator from Washington.

Mr. JACKSON. Mr. President, I thank the distinguished Senator from California for a very fine statement.

Mr. President, I have received letters from both the AFL-CIO and the Industrial Union Department of the AFL-CIO expressing full support for this amendment and the other amendments that I will be proposing.

I ask unanimous consent that the letters of support from the two labor organizations be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AFL-CIO,
Washington, D.C., July 19, 1979.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: The AFL-CIO fully supports the amendments which you and seven of your colleagues have proposed to S. 737, the Export Administration Act of 1979.

As Larry Brady, the Acting Director of the Office of Export Administration, indicated in his testimony, controls on exports of security-sensitive technologies are seriously defective. The Commerce Department is so overburdened with export license applications that it cannot effectively enforce the existing weak provisions in the law. More fundamentally, the responsibility for protecting national security should not rest with an agency whose primary concern is to increase exports. We agree with you that the chief responsibility for formulating a list of goods and technologies to be controlled for national security purposes should be shifted to the Secretary of Defense.

Your amendment designed to produce a "reliable evidence test" with regard to determining the foreign availability of advance technology would provide the assurance a sound policy requires that foreign availability is not merely an excuse for otherwise improvident licensing.

The current SALT debate has focused on the presumed U.S. technological advantage in the strategic competition. Every step must be taken to prevent the Soviets from closing that gap. Your amendments are an important step in that direction.

Sincerely,

LANE KIRKLAND,
Secretary-Treasurer.

AFL-CIO,
INDUSTRIAL UNION DEPARTMENT,
Washington, D.C., July 17, 1979.

DEAR SENATOR:

The Senate is expected to vote this week on S. 737, the Export Administration Act of 1979. There are two issues which will be raised during the debate that are of critical importance to the Industrial Union Department, AFL-CIO.

Senator Jackson will offer a series of amendments designed to restrict the flow of critical technologies to controlled nations. These amendments would not impose any additional burdens on trade. They would, however, provide a more effective framework for the identification and effective control of security related technologies and for the relaxation and elimination of unnecessary controls.

The Acting Director of the Office of Export Administration (OEA) at the Commerce Department recently testified to a House Subcommittee that the export controls process is "a shambles." It is clear that a loose and inefficient export control system threatens

to undermine the narrowing technology gap on which our security increasingly depends. What we need to create is an effective sieve through which our technology will flow, and the Jackson amendments seek to do that.

One series of proposed amendments would give the Secretary of Defense primary responsibility for formulating a list of technologies and goods that would be subject to national security controls. The Commerce Department is presently overburdened with some 70,000 license applications each year, and lacks the expertise to formulate the list of critical technologies.

Another series of amendments would address the important area of foreign availability. Too often a mere assertion of "foreign availability" on export license applications is used by the Commerce Department to justify license approval when close investigation might have revealed that U.S. suppliers exercised effective control over the goods ar technologies involved. The proposed amendments set down a more serious evidentiary test before concluding that advanced technologies or goods are available from sources other than the U.S. This "reliable evidence test" is clearly the only logical way to go.

At the present time, licenses may be granted on the basis that the recipient nation makes a representation that the "end-use" of the technology will be non-military; or on the basis that there are effective safeguards against diversions to military use. Past experience tells us that such safeguards cannot be devised. A proposed amendment would direct that, to the maximum practicable extent consistent with the provisions of the act, export of critical items shall be prohibited to nations threatening U.S. security. This would also have the benefit of obviating many unnecessary license proceedings. A related amendment would provide that exports to non-communist nations be subject to validating controls which are reasonably designed to prevent the re-export of such critical items to communist nations, as present export regulations generally do not control such exports of technologies.

These amendments dealing with the transfer of technology are the only amendments to the Export Administration Act which we support.

The bill also contains language which would extend and strengthen current restrictions on the export of Alaska oil. *We urge your support.* This is no time to ship millions of barrels of oil to foreign lands while Americans are sitting in gas lines. Only if all Alaska oil remains in the U.S. will the oil companies have any incentive to build the west to east pipelines our country so badly needs, and to rebuild the west coast refineries. An efficient energy transportation system is an essential element of national energy self reliance. There is already more than enough profit incentive in Alaska oil's decontrolled price to encourage increased production. Alaska oil belongs at home where it can be used by the American people.

The Industrial Union Department, AFL-CIO urges your support of the restriction on Alaska oil contained in S. 737 and of the amendments which would provide restrictions on the transfer of technology to controlled nations.

Sincerely,

JACOB CLAYMAN,
President-Secretary-Treasurer.

The ACTING-PRESIDENT pro tempore. Who yields time?

Time will be charged equally on the amendment.

Mr. HEINZ. Mr. President, I yield not to exceed 5 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise as a cosponsor of the amendments proposed by the junior Senator from Washington (Mr. JACKSON) and others, to tighten controls on the export of technology with military application to the Soviet Union and other Communist states.

When the war machine of the Soviet Union becomes stronger, our own security and the security of the entire free world is adversely affected. Obviously, we have no way of imposing an absolute prohibition on the Soviet military buildup—a buildup which already far eclipses the Nazi military power growth which preceded World War II.

However, at a time when we are spending $130 billion a year for the defense of the United States, it simply makes no sense that we should be aiding the Soviets in improving the mobility and the deadliness of their enormous war machine by permitting, and even encouraging, the export to the Soviets of high technology equipment, including entire industrial plants.

As a member of the Senate Armed Services Committee, I believe the repeated reports that the administration intends to further relax the already sadly inadequate limitations on the control of exports to the Soviet Union is a challenge Congress must meet headon.

The amendments proposed by Senator JACKSON and his cosponsors will result in realistic and effective controls on this most serious situation. The need for these amendments is obvious and I would like to relate to the Senate why I believe these changes are necessary.

In one of his statements before a congressional committee, Dr. Malcolm R. Currie, then director of Defense Research and Engineering stated:

> American security . . . stands on a foundation of technological superiority. We need superiority in defense technology. First, because the openness of our society tells our adversaries what we are planning in military technology, while their secrecy forces us to provide for many possibilities. Second, in military operations, we traditionally depend on superior quality to compensate for inferior numbers. Third, in order to interpret vital but fragmentary intelligence information, we must have extensive prior experience in the area.

But, instead of attempting to retain and expand our technological lead in order to compensate for the numerical inferiority of our Armed Forces, we appear to be determined on helping the Soviets to catch up with us by providing them with access to our most sophisticated technologies and equipment.

Mr. President, the able Senator from Washington (Mr. JACKSON) wrote to President Carter on July 25, 1977:

> . . . I am persuaded that the effect of our past and current policies in this area has been to enable the Soviets and their allies to acquire technology that bears importantly on the military balance between East and West. . . . In my judgment, our current condition can best be described as acute hemorrhaging.

The situation has, if anything, become worse since this statement was made.

In the paragraphs that follow, I intend to examine several case histories, from a much longer list of such histories, dealing with the export of technology and equipment that have dramatically augmented the Soviet military threat to the United States.

THE CASE OF THE BRYANT GRINDERS

Back in 1960–61 the Soviet Union sought to purchase from the United States 45 Bryant Centalign-B grinders, which are machines used in the mass porduction of ultra-high precision miniature ball bearings. Our ability to produce these miniature ball bearings and the Soviet inability to do so, gave us at that time a substantial lead in the fields of miniaturization, missile accuracy, and the precision control of our firing systems. The sale of the Bryant grinders at that time was approved first by the Eisenhower administration and then by the Kennedy administration. Fortunately, the Senate Subcommittee on Internal Security held hearings on the proposed export of the Byrant machines to the Soviet Union. After taking testimony from 13 of the top ball bearing engineers in the country, it wrote a report so persuasive that President Kennedy, when he read it, overruled the CIA, the Advisory Committee on Export Control, and his own Cabinet, and ordered the cancellation of the shipment.

I should like to quote just two brief paragraphs from the report which changed President Kennedy's mind, because these paragraphs have an across-the-board application to the entire problem of technology transfer.

One of the ball bearing engineers who testified, Mr. Henry Konet, told the subcommittee that—

> It is necessary to distinguish between giving away secrets, and know-how and capability. Our manufacture of these small devices is no secret—even the manner is not difficult to determine—but the capability to do it well and economically has taken years to develop and should not be sold to a potential adversary. . . . The situation is not one of selling our adversary a club—but machines which help to produce better clubs faster and cheaper.

After summarizing the testimony, the subcommittee's report offered this basic conclusion:

> . . . our national security obviously demands that we stop helping Soviet industry, especially the Soviet defense industry, to overcome its weaknesses. It demands, on the contrary, that we inflict delays on them whenever this is within our power, that we make things more difficult for them rather than easier.
>
> . . . the Senate Subcommittee on Internal Security is strongly of the opinion that the machines in question should not be shipped to the Soviet Union.

Unfortunately, the Nixon administration in 1972 approved the export of 164 Bryant Centalign grinders to the Soviet Union. In the 12 years that had elapsed since they had first attempted to buy the Bryant machines, the Soviets had desperately been seeking to duplicate their technology. Left to their own resources, the Soviets were unable to do so. That is one of the chief reasons why we were able to retain our technological lead in inertial navigation controls and missile accuracy throughout the 1960's

and into the early 1970's Conversely, our sale of the Bryant grinders to the Soviet Union, according to members of our intelligence community, has played a major role in the dramatic rate at which the Soviets have been able to improve the precision of their own missiles and to catch up with us in the field of MIRVing.

The improved accuracy of the Soviet missiles has made our own Minuteman system increasingly vulnerable to the threat of a Soviet first strike—as a result of which we may now have to spend as much as $40 to $45 billion to replace the Minuteman system with a mobile missile system.

THE KAMA RIVER TRUCK PLANT

In the early 1970's, the administration approved a project under which an American engineering combine, headed by the Swindell-Dressler Co., contracted to build a giant truck plant for the Soviet Union on the Kama River in Siberia. This plant is now nearing completion. When it is completed, it will, reportedly, have an annual production capacity of 250,000 multiple axle trucks, which, according to the noted expert, Dr. Miles Costick, is "more than the capacity of the entire U.S. heavy truck industry."

It is not just the size of the project that is disturbing. In testifying before a congressional committee on April 23, 1974, Donald E. Stingel, president of the Swindell-Dressler Co., stated that the technology that was being built into the Kama River plant was in advance of that in any plant in the United States.

The export of the Kama River plant to the Soviet Union was approved by the Commerce and State Departments on the ground that the equipment involved was "nonstrategic." In addition, the Soviets had to sign a statement in this case, as they do in importing other high technology equipment, pledging not to use the technology for military purposes. All this, in my opinion, is nonsense because we have absolutely no way of enforcing such a pledge. In fact, it should have been obvious from the beginning that the Kama River plant was going to be used to service the Soviet military establishment rather than to service the non-military sector of the Soviet economy.

Mr. President, it came as no surprise to me—and it should not have come as a surprise to anyone who knows anything about the Soviet Union—that Moscow has been using the Kama River plant not only to build conventional transport and scout vehicles for the Soviet Armed Forces, but also for the purpose of producing armored personnel carriers and assault vehicles, including the T-72 battle tank—the most advanced tank in the Soviet military inventory. This information was developed in the course of a hearing of the House Armed Services Committee in May 1979.

In this hearing, Representative RICHARD ICHORD, quoted from a classified intelligence report and from the testimony of Hans Heymann, the CIA's national intelligence officer for political and economic affairs. Mr. ICHORD noted that, according to Heymann, the Kama River plant, although not in full production, has been turning out some 50,000 diesel engines a year for installation in military vehicles.

When the Senator from the State of Washington (Mr. JACKSON) spoke of "acute hemorrhaging" the export of the Kama River truck plant was one of the things he had in mind.

In the case of the Bryant grinders, we were selling Moscow technology that has helped it to enormously upgrade the quality of its strategic missile arsenal. In the case of the Kama River plant, we have sold them technology which greatly enhances the Red Army's capability to launch a blitzkrieg attack against Western Europe.

THE SALE OF DEEP-WELL PETROLEUM TECHNOLOGY

Only last year, the Carter administration approved a total of 74 applications for the export of oil technology to the Soviet Union. One of these applications involved the sale by Dresser Industries of a $144 million plant designed to produce the highly specialized bits used in deep-well petroleum drilling. Writing about this transacton in the April 1979 issue of Commentary, Mr. Carl Gershman said:

> This particular deep-well technology is needed by the Soviet Union if it is to develop major new oil reserves, an urgent priority since it is now expected to become a net importer of oil by the mid-1980s. Lacking adequate energy sources, the Soviet economic growth rate could slow to about 3 percent, which would make it exceedingly difficult to increase military spending by 4 or 5 percent every year, or to finance a Cuban expedition to Africa. Hence the Soviet interest in American oil technology.

I want to call to the attention of the Senators the fact that the Dresser Industries application to export deep-well technology to the Soviet Union was strongly opposed by Energy Secretary James Schlesinger, by members of the National Security Council and by a special task force set up by the Defense Science Board. The report of the task force stated that the petroleum drill bit technolgy we have now sold to the Soviet Union was "wholly concentrated in the United States," that it "has strong strategic value in the 1980's," and that the construction of the plant by Dresser Industries would make it possible for the Soviets "to enter world markets with advanced drilling capabilities," thus giving them access to enhanced influence in the oil producing areas. The report also noted that, as a by-product of the new technology which we are helping them to acquire, the Russians would also be enabled to manufacture more sophisticated armor piercing projectiles.

These are only three examples of a much longer list of technology transfers that have had the effect of enhancing—dangerously enhancing in my opinion—the military capabilities of our only serious adversary. Dr. Miles Costik, director of the Institute on Strategic Trade, has compiled a much longer list of such technology transfers in a recent paper entitled "The Soviet Military Power as a Function of Technology Transfer from the West." Among the other items in Mr. Costick's compendium are "American wide-body jet aircraft technology (critical in deployment of air-launch cruise missiles; numerous space technologies also relevant for military effort in space (space capsules coupling technology, astronaut's space-suit technology, relevant computer technology, etc.);" and highly advanced computers that have obvious military applications and which the Soviets could not possibly have produced left to their own technological resources.

Summing up this entire situation, Mr. Costick stated:

> The success of the continuing Soviet raids on Western technology, but most importantly U.S. technology, that can be used in systems for ICBM guidance, anti-submarine warfare, automatic fire control and other military applications has clearly demonstrated a critical need for an intensified reexamination of what, how and why it is being sold to the Soviet Union, its satellites around the globe and Communist China.

Mr. President, so that the Senators will have available the documentation on which I have based my statement, I ask unanimous consent to have printed in the RECORD at this point the following items:

An article by Dr. Miles Costick, published March 22, 1979 by the Institute on Strategic Trade entitled "The Soviet Military Power as a Function of Technology Transfer from the West;" an article by Carl Gershman published in the April 1979 issue of the Commentary magazine entitled "Selling Them The Rope;" an article published in Human Events on May 26, 1979 entitled "Carter Begins Drive to Step Up Soviet Trade;" a report by the Senate Subcommittee on Internal Security printed in March 1961 entitled "Proposed Export of Ball Bearing Machines to the Soviet Union;" and another article in Human Events published June 2, 1979 entitled "Will House Beef Up USSR Military Capability?"

Mr. President, in conclusion, I wish to state that these amendments which I am cosponsoring are of great importance to the national security of our country. I urge the Senate to consider them carefully and I believe in so doing each member will find that by adopting these amendments, we will be enhancing our own security and helping to protect the free world.

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

THE SOVIET MILITARY POWER AS A FUNCTION OF TECHNOLOGY TRANSFER FROM THE WEST

(By Dr. Miles Costick)

Due to its implications for national and international security, the trade between the industrialized democracies of the West and communist governments cannot be treated as a strictly economic proposition. The perennial protracted conflict between two socio-economic systems, which prevail in the world today, clearly demonstrates that in international commerce, economic and strategic elements are inextricably intertwined. In recent years, more than ever, the strategic elements in commerce have come to outweigh the economic as far as the so called "superpowers" are concerned. One thing that must be understood is the need for consistancy between a nation's

strategic objectives and its foreign economic policies.

DETENTE AND TRADE

On February 10, 1922, British Prime Minister Lloyd George made a statement:

"I believe we can save her (Russia) by trade. Commerce has a sobering influence . . . trade, in my opinion, will bring an end to ferocity, the rapine, and the crudity of Bolshevism surer than any other method."

Since the early days of Soviet Bolshevism, the Western world has been trying to coax the communists into not being communists with periodic injections of credits and technology. The hoped-for result echoed in British Prime Minister Lloyd George's statement—now more than 57 years past—has failed to materialize. Yet leaders of the capitalist world continue to charge ahead like so many modern-day Don Quixotes in search of their impossible dream: The merger of totalitarian dictatorship with capitalism.

NOTE.—Nothing written here is to be construed as an attempt to aid or hinder the passage of any bill before Congress.

It is not a common perception that the industrialized democracies and the Soviet Union—with its surrogates around the globe are currently engaged in World War III, and the battlefields are economic. The economic warfare conducted by the Soviet Union is an intrinsic part of its ideology and the world wide revolutionary process. On the free world side of the equation, this is not perceived for what it is, and the result is "economic detente" which facilitates transfer of wealth from the West to the East. By providing critical technology, governments and entrepreneurs of the industrialized democracies strengthen Soviet strategic capabilities and enhance Soviet self-assurance, which translates itself in the international arena into more and more daring actions. The United States and its allies do not have a clear commercial policy tailored to their strategic and economic interests vis-a-vis the communists. Instead they conduct commerce with the totalitarians based on a vulgar assumption that "one can tame them or buy them through commerce".

Current U.S. policy on trade with the communists was the brainchild of Henry Kissinger. However, the same policy has continued unabated under the Carter administration. Kissinger's concept of "economic detente" was based on an attempt to link the Soviet geostrategic behavior with availability or denial of economic benefits from the United States and its allies. Kissinger envisioned that "through a set of strategic and economic agreements, the U.S. could spin a web of vested interests thereby encouraging the Soviet Union to temper its international behavior."

This, of course, has not happened. The U.S.S.R. continues to pursue its strategic and ideological objectives and through that process seriously threatens U.S. national interests.

After the infusion of $64 billion worth of credits from the Western world and Japan, and about 1,000 joint manufacturing venutres with Western and Japanese firms, as well as about 1,200 contracts on industrial cooperation signed between COMECON governments and Western firms, the Soviet Union using proxy Cuban troops and its Eastern European satellites threatens the free world's access to the critical resources of Africa and the Middle East.

The massive transfer of technology and capital from the West to the East instead of enhancing Soviet interest in peace and tranquility has accomplished exactly the opposite. It made a tremendous contribution to the Soviet strategic capabilities and in consequences encouraged its belligerency.

The aforementioned development is absolutely in accordance with the plans laid down by Leonid Brezhnev to Warsaw Pact communist parties' leaders in Prague in June 1973. In a secret meeting Brezhnev spoke very frankly about using "economic detente" to consolidate the strength of Soviet bloc economies and to advance their standing strategic objectives.

Brezhnev told the Soviet bloc party leaders that by 1985 they will have achieved most of their objectives in Western Europe, that they will have consolidated the Warsaw Pact position, improved the economy, and achieved a decisive shift in the correlation of forces, and that they will be able to exert their will wherever they need to.

In his famous treatise on Soviet military strategy, Soviet Marshal V. D. Sokolovskiy commented,

"In the present epoch, the struggle for peace and the fight to gain time depends above all on an unremitting increase in Soviet military power and that of the entire socialist camp based on the development of productive forces and the continuous growth of its material and technological base."

TECHNOLOGICAL COMPETITION

With respect to national security, the term "technological competition" refers to the efforts of competing political-economic systems to maintain, or to achieve, superiority in high-technological areas that are important in effective military systems. In this era of unprecedented change, our technological strength is the key to our long-range survival as a nation.

In one of his statements before a Congressional committee, Dr. Malcolm R. Currie, then Director of Defense Research and Engineering, stated:

"American security . . . stands on a foundation of technological superiority. We need superiority in defense technology. First, because the openness of our society tells our adversaries what we are planning in military technology while their secrecy forces us to provide for many possibilities. Second, in military operations, we traditionally depend on superior quality to compensate for inferior numbers. Third, in order to interpret vital but fragmentary intelligence information, we must have extensive prior experience in the area."

In some very important areas our technological lead over the Soviet Union is gone; in others the Soviets are ahead—(i.e.— directed energy weapons based on laser beams or charged particle beams, surface-effect vehicles, anti-personnel pressure weapons, application of certain technologies including computers in entirely new military systems and operations, etc.).

The technology balance is dynamic. In evaluating the current technology balance and its dynamics, the experts agree that the Soviet Union has a very substantial and determined effort. According to a recent statement by Defense Secretary Harold Brown, the Soviet R. & D. expenditures are three times greater than that which the U.S. spends on its R. & D. Moreover, the Soviets are inexorably increasing their level of technology relative to ours and are, in fact, seizing the initiative in numerous important areas.

The technology development is molding future Soviet strategy. From all indications, the future Soviet strategy will be world dominance, with technology as a central factor.

TRANSFER OF TECHNOLOGY

Design and manufacturing know-how lie at the foundation of America's world position—both economic and military. Until relatively recently, the United States had out-distanced the rest of the world through its particular genius to turn laboratory dreams into realities.

"Yet today that mastery of design and manufacturing is being rapidly transferred to friendly nations, to non-aligned nations and to Warsaw Pact nations." So wrote, not too long ago, J. Fred Bucy of Texas Instruments. Bucy wrote, "Exporting design and manufacturing know-how to potential enemies strengthens them militarily. And exporting that same know-how to potential economic competitors—friends or foes—strengthens them to compete against us for world markets. Yet we continue to transfer know-how by many means."

Over the past 10 years, the outflow of technology to the Communist dominated countries has dramatically increased. The amount of significant technology that has been transferred and its impact on the military capability of the Communist countries, particularly the Soviet Union, is not exactly known.

Some will argue that its impact has been minimal. Our concern is that the transfer of militarily significant technology has been of major proportions, and that the Soviet Union has narrowed the gap in its relative weapons capability with the United States to our detriment. The change will become evident over the next five years. Unfortunately, by the time it becomes apparent, it will be too late to act.

The Soviet Union and Eastern Europe have consistently lagged behind the West in industrial technology and have used detente as a means to pursue access to the latest technology from the United States and other industrialized nations. Increasingly, they are insisting that continued updating of the technology be a part of all new contracts. They are not interested in pure science, which they can get free through scientific publications and exchanges or for the price of tuition at major graduate schools and technical institutes. They are highly skilled in scientific theory. They also don't want to purchase products over an extended period of time, but only to fill in the gaps that they cannot currently make themselves.

Technology acquisition is their objective because, once acquired, it provides them a capability to produce their own goods and services to satisfy both present and future needs. And technology provides a base to support subsequent advances in the performances of products.

The Soviet Union and Eastern European governments have used a variety of mechanisms to acquire Western technology. They include the purchase of turnkey factories from the United States and other free industrialized nations; protocol and technical exchange agreements with Western and Japanese firms; government-to-government science and technology exchange agreements; visitations and consultations with U.S. technical experts in industry and universities; enrollment at the best technical universities; unauthorized transfers from third countries; and outright espionage.

Concern, for this threat to the United States security, has led Senator Henry Jackson to write President Carter on July 25, 1977: ". . . I am persuaded that the effect of our past and current policies in this area has been to enable the Soviets and their allies to acquire technology that bears importantly on the military balance between East and West." ". . . In my judgment, our current conditions can best be described as acute hemorrhaging."

DUAL PURPOSE TECHNOLOGIES

Many of the technologies of greatest interest to the COMECON governments have important military as well as commercial applications. In recent years, the leading edge of these technologies have increasingly been developed by the private sector for commercial applications and only later for military applications.

As a consequence, increased commercial contacts with the U.S.S.R. and its COMECON

partners may result in the outflow of significant technologies, before the application of these technologies to advanced weapon systems in the United States.

Soviet intelligence agencies have a long tradition of focusing heavily on acquiring industrial know-how. The Soviets have made major covert efforts to acquire key components of high technology, particularly in the computer field. They often focus on very small firms which can supply particular critical components or facilities.

The Soviet agency which actually uses a product may be different from the agency that comes to purchase it. End use controls are, therefore, often ineffective; particularly with sales to a completely state owned economies of the Soviet bloc. This problem of multiple end uses is, if anything, more acute with the most modern technology. Reprocessing plants may produce plutonium for bombs as well as for fuel. Technology for the production of wide-body aircraft can contribute to military airlift capabilities as easily as to civilian transportation. The equipment for producing circuits used in pocket calculators may also be used for guidance computers of missiles. New technology used in medicine may have highly important military or intelligence applications. Computers for processing seismic signals in geological exploration might also be used to process sonar signals in antisubmarine warfare. Capabilities for launching communications satellites may be used for military missiles. The technology for high-bypass turbofan engines and high inlet temperature turbines can be used in military as well as civilian aircraft. And NASA's "joint ventures" in space exploration will inevitably help Soviet experts to run their military space program.

MILITARY DIMENSION OF TRADE

It is important to realize that what the Soviet Union needs to improve its strategic tactical and conventional forces is not purely military in character. What the Soviet Union needs is certain key applied technology to improve its guidance systems, avionics, missile technology, and key bomb components. Such technology is now available in commercial applications from the U.S., France, Germany, Japan, and the United Kingdom. The acquisition of such "non-military" technology should enable the Soviet Union to quickly upgrade its bomber force; and allow it to make almost instant improvements in its targeting and warning technologies.

As a consequence of the lack of coherent national policy—controlling the transfer of technology to communist dominated countries—numerous critical technologies have been transferred to the Soviet's either directly or through "the back door". Here are some of the major technological transfers that took place:

The Soviets succeeded in obtaining American wide-bodied jet aircraft technology (critical in deployment of air-launched cruise missiles).

The Soviets obtained RB-211 high-bypass ratio turbo fan jet engine technology, developed on $300 million in U.S. government R. & D. grants to the Lockheed Corp. (The engine powers wide-bodied jet aircraft, and is suitable for long-range bombers.)

The Soviets succeeded in obtaining U.S. semi-conductor technology of critical importance in guidance systems for ICBM's and other missiles as well as in miniaturized military computers.

The key technology for the Soviet KAMA River heavy duty truck plant came from the United States. This is the largest truck factory in the world with an annual production capacity of 250,000 10-ton multiple-axle trucks and 350,000 diesel engines, which can be used to power tanks. In addition, KAMAZ, will have the capacity to produce tanks, tank turrets, tank engine blocks, scout cars and rocket launchers.

The Soviet Union obtained from the U.S. numerous space technologies also relevant for military effort in space (space capsules coupling technology, astronaut's space-suit technology, relevant computer technology, etc.).

The U.S.S.R. used the U.S. heat-seeking shoulder-launched "Redeye" missile for development of its own SA-7 Grail missile.

The Soviets purchased 164 Centalign-B machines, and accompanying technology, to produce precision miniature ball-bearings without which ICBM's guidance mechanism could not be built. This technology is also an imperative for MIRVing and MARVing mechanisms. As a result of this deal the Soviets were able to close up the critical MIRV gap.

The most modern and only effective air traffic control center in the U.S.S.R. at Moscow's Vnukovo Airport (the contract is valued at $74 million) is being constructed with integrated circuits from the U.S. This computerized air traffic control system has a direct military spillover.

Soviet dissident Anatoly Sharansky was sentenced to a long jail term for informing Western reporters that the Soviets have violated agreements signed with the U.S. Department of Commerce regarding the use of U.S. purchased computers. According to Sharansky, in his capacity as computer expert within the Soviet military establishment, he worked on American computers sold to the U.S.S.R. for civilian purposes only.

The Soviet Union is making every attempt to obtain a critical military technology from the U.S.—the small high-efficiency aircraft gas turbine engine of the type currently used in the U.S. Air Force/Boeing ALCM-B—and the Navy/General Dynamics Tomahawk cruise missiles. The manufacturer in the U.S. is Detroit Diesel Allison, the engine, ironically, is classified as "commercial" and consequently easy to obtain by any communist government. The export application is pending for engines and manufacturing technology to Poland and Rumania. The amazing aspect of the potential sale is in fact that the Carter administration denied this technology to U.S. NATO allies and is considering the sale of the same to the Soviet Warsaw Pact allies.

The success of the continuing Soviet raids on Western technology, but most importantly U.S. technology, that can be used in systems for ICBM guidance, anti-submarine warfare, automatic fire-control and other military applications has clearly demonstrated a critical need for an intensified reexamination of what, how, and why it is being sold to the Soviet Union, its satellites around the globe and Communist China.

Just how fast and how far the Soviets have moved in overcoming what was believed to be a major disadvantage in miniaturized electronics and precision guidance systems was made clear last year. The Soviets then tested prototypes of two new intercontinental ballistic missile systems and demonstrated they could deliver nuclear warheads within 600 ft. of a designated target.

The tests sent a "shock wave" through high-level defense planning sanctums because it had been believed the Soviets would not achieve such accuracy with their ICBM's until the mid-1980's or later.

The test results have led Secretary of Defense Harold Brown to revise the Pentagon's latest military posture statement to show that the Soviets may deploy the more-accurate ICBM system in the "early to mid-1980's," giving them the ability to destroy a large percentage of the U.S. ICBM force by direct hits.

The mass production of the Soviet MIRV's and the accuracy of the new, so called "5th generation" Soviet ICBM's also is a major reason and argument for deployment of the new, $35-40 billion MX missile system that Secretary Brown insists the United States must have to counter the rapid Soviet advances in missile technology.

Just how much US-derived technology is represented in the new Soviet ICBM system is not totally known. This analyst as well as a number of policy makers of the past and present believe that the US export and policy moves during the last 10 years have given the Soviets the know-how and equipment needed for increased ICBM accuracy.

One case, which was already mentioned, involves a 1972 deal by the Bryant Chucking Grinder Co. of Vermont, to sell the Soviets 164 precision ball-bearing grinding machines capable of producing pin head-size ball bearings (size roughly 0.04 inch in diameter), having tolerances of less than one-twenty-five millionth of an inch. The $20 million sale approved by the Nixon administration, at the peak of detente euphoria, is to a great extent responsible for the $40 billion MX missile system program. In 1976, Edwin E. Speaker, a weapons expert for the Defense Intelligence Agency, testified before a Congressional subcommittee.

"It is a certainty that the products of these grinders could and will be found in a wide variety of current and future ground, air, sea, and space military hardware that require precision guidance equipment, optical recording devices as well as associated scientific test equipment.

Another sale that caused "a broad concensus of concern" among specialists at the CIA and Defense Department was a 1974 sale of a turn-key plant for manufacture of integrated circuits. The plant, which was based on technology licensed by US semi-conductor firm—Fairchild, was sold by a French consortium to Poland after the deal was approved by the Nixon administration.

Large-scale integrated circuits, are listed among nine key categories in which defense and intelligence officials, as well as U.S. industry are trying to clarify export controls. However, while the intelligence community and Department of Defense believe that it is an imperative to tighten technology export controls, the business community, Commerce Department, and State Department are working in the opposite direction.

The devices in question are complex electronic circuits that are reduced photographically and etched on tiny silicon chips. They can be used, for example in missile-guidance and aircraft-fighter fire-control systems, giving computer-like control while contributing miniscule weight, bulk, and electrical drain. They are typical dual-purpose technology end-products also used in the non-military items such as pocket calculators, digital wrist watches, microwave-oven controls, and television and high fidelity sets.

The Soviet Union has also acquired by clandestine means the integrated circuits technology and manufacturing capabilities from Japan in one of the most daring undertakings of their industrial espionage.

The Soviet acquisition of sophisticated U.S. ICBM technology goes beyond integrated circuits and precision ball bearing technologies without which they could not build the gyroscopes for ICBM's and for the individual MIRVs. Major General George J. Keegan Jr., former head of Air Force Intelligence has stated:

"The Soviet Union has acquired all of our inertial guidance technology for ballistic missiles."

Many other technologies which protect the current U.S. military lead in certain areas are also little-known, dual-purpose items. Small array transform processors, called ATP's, are used, for instance, in seismic oil exploration equipment. ATP's are electronic devices which enhance the computer speed so computers can interpret millions of tiny variations in the sounds of geologic formations below the earth.

Attached to shipboard computers, ATP's perform one of the central functions of anti-submarine warfare: They assist the computer in digital signal processing and signal analysis which enables the computer to identify tiny differences in the sounds under the ocean's surface, a process that yields the location of enemy submarines.

It is known that Geo Space Corp. of Houston, Texas, has sold 36 ATP systems, critical for submarine detection systems, to the Soviet Union and Communist China.

Litton Industries is another business enterprise which has also been involved in the sale of similar anti-sub warfare systems.

The sale of the submarine detection system and technology, especially to the Soviet Union, has created an entirely new problem. We have already observed that the transfer of precision miniature ball bearings technology and integrated circuits technology to the Soviet Union have resulted in a direct threat to the survivability of our Minuteman ICBM's. And to offset this we must have a new ICBM system which involves not only time to develop and deploy after prolonged and tedious debates, defense policy disputes, and political maneuvering but it also imposes an additional cost of $35–40 billion.

Our latest submarine class—Trident, enormously expensive, has been developed on the basis that the Soviets had no submarine detection technology. However, a Soviet breakthrough in submarine detection technology would make our latest generation of submarines vulnerable. At the time of the development of the Trident class submarines the US military experts saw no evidence that the Soviets were close to a breakthrough in submarine detection technology. In the absence of a breakthrough a given number of missiles in 10 Trident class size and weight submarines (the sub due to its big and heavy reactor had required a huge hull, and that huge hull, in turn, had to be fitted with an unprecedently large number of missiles to justify its size and cost) would clearly be cheaper than the same number of missiles in 20 subs, even though the smaller subs would be individually cheaper. As a result we have been building large subs. On the other hand, if we were to assume a highly effective Soviet detection capability, the 20 subs would permit many more of the missiles to survive to arrive at Soviet targets. However, we are stuck with expensive large submarines vulnerable due to the transferred sub detection technology and due to transferred guidance technology for the Soviet ICBM's.

The vulnerability of our Trident class subs clearly requires a remedy. That remedy spells time consuming, frustrating defense policy debates and disputes, tedious political and congressional processes, again time consuming development and deployment of new class subs, and billions upon billions of dollars for the development and deployment of the new subs.

THE CAUSE OF THE PROBLEM

U.S. policy on international trade consists of two elements that are not always reconcilable: 1) to promote trade and commerce with other nations, and 2) to control exports of goods and technology which could make a significant contribution to the military potential of any other government or governments when this would prove detrimental to the national security of the United States.

Our chief concern is with the second of these goals. Our concern, however, must be discharged without restricting free trade flow with the free nations around the globe.

The given empirical evidence proves that, since the onset of "economic detente"—that has resulted in the liberalization of trade legislation pertaining to commerce with the communist governments—the export control efforts have failed. Also, due to political detente with the U.S.S.R. and its satellites, there was a flood of communist agents to the U.S. Numerous government-to-government scientific, technological, and cultural exchanges have created tremendous opportunities for stealing U.S. scientific and technological secrets. All these, as we have demonstrated, has had and is having a detrimental impact on U.S. national security.

SOLUTION

The U.S. government's objective in the control of exports of U.S. technology should be to protect the United State's lead time relative to its principal adversaries in the application of technology to military capabilities. In addition, it is in the national interest not to make it easy for any country to advance its technology in ways that could be detrimental to U.S. interests. These controls, however, are to be applied so as to result in minimum interference in the conduct of commerce between free trading partners.

For the purpose of effective export controls we perceive a need for new definitions and for new administrative procedures. First, one has to define what is to be understood under the term "critical technology." The term "critical technology" should refer to the classified and unclassified nuclear and non-nuclear unpublished technical data, whose acquisition by Warsaw Pact members, or any other potential adversary, could make a significant contribution, which would prove detrimental to the national security of the U.S., to the military potential of such country—irrespective of whether such technology is acquired directly from the United States or indirectly through another recipient, or whether the declared intended end-use by the recipient is of military or non-military use.

"Technical data" means information of any kind that can be used, or adopted for use, in the design, production, manufacture, utilization, testing, maintenance or reconstruction of articles or materials. The data may take a tangible form such as a model, prototype, blueprint, or an operational manual, or they may take an intangible form such as technical service or scientific and technological exchanges.

Control of such critical technology also requires the control of certain associated critical end products defined as "keystone" that can contribute significantly in and of themselves to the transfer of critical technology because they 1) embody extractable critical technology and/or 2) are equipment that completes a process line and allows it to be fully utilized.

Second, it is our conclusion that the key role in definition of what constitutes critical technology should be assigned to the Defense Department. Also, the Defense Department should be responsible to designate those items which shall be considered as defense articles and defense services so that they can be properly placed on the United States Munitions List administered by the State Department. In its present form the Security Assistance Act and Arms Export Control Act of 1976 does not require this procedure. At this time, there is no specific provision under any of the individual classifications of the Act for the identification of any design, production or test data as "significant combat equipment." The criteria for the selection of categories to be designated "significant combat equipment" does not necessarily involve judgment as to strategic or advanced technology. For example, while category "significant combat equipment" includes M1 rifles and bayonetts, it excludes CDC's Cyber-76 computer, and certain technologies and equipment necessary for the production of nuclear warheads.

In order to protect and strengthen U.S. defense production capabilities, procedures need to be established to separate the military articles required by most foreign countries from the design and manufacturing know-how essential to the production of the articles. Under existing agreements with our NATO Allies, a number of projects involving coproduction and standardization require the transfer of such information in both directions, but this flow of technology with other friendly countries requires more control than is presently possible. Similarly, while the export of some commercial, technological products could be more readily available to even the Soviet Union, it is essential to restrict the export of the associated design and manufacturing of those products which are also on the U.S. Munitions List.

The present Commerce Department's Commodity Control List is derived from the Munitions List by way of the Battle Act and the Mutual Security Assistance Act, which are administered by the State Department. Because the role of the Defense Department has not yet been specified in any legislation as the basic source for the definition of "defense articles" or "strategic technology", there continues to be uncertainty and delay in the processing of Commerce Department and Munitions Department license applications. The present reports required by the Arms Export Control Act and the studies to be required when the Export Administration Act comes for deliberation before U.S. Congress, should provide the Administration with the unique opportunity, now, to restructure the entire Arms and Export Control process.

NOTE: This Current Analysis No. 2 is part one dealing with the titled subject matter. Forthcoming part two will be based on the results of the interviews conducted with former Soviet scientists, engineers, military officers, and intelligence officials.

SELLING THEM THE ROPE—BUSINESS AND THE SOVIETS

(By Carl Gershman)

I must say that Lenin foretold this whole process. Lenin, who spent most of his life in the West and not in Russia, who knew the West much better than Russia, always wrote and said that the Western Capitalists would do anything to strengthen the economy of the USSR. They will compete with each other to sell us goods cheaper and sell them quicker, so that the Soviets will buy from one rather than from the other. He said: they will bring it themselves without thinking about their future. And, in a difficult moment, at a party meeting in Moscow, he said: "Comrades, don't panic, when things go very hard for us, we will give a rope to the bourgeoisie, and the bourgeoisie will hang itself."

Then, Karl Radek, . . . who was a very resourceful wit, said: "Vladimir Ilyich, but where are we going to get enough rope to hang the whole bourgeoisie?" Lenin effortlessly replied: "They'll supply us with it."—ALEKSANDR SOLZHENITSYN, June 30, 1975, in a speech to the AFL–CIO

The issue of trade has figured prominently in relations between the United States and the Soviet Union ever since the Nixon administration initiated the policy of détente almost a decade ago. Already in 1969, even before détente had become the central theme of the Nixon administration's foreign policy, the President signed into law the Export Administration Act, replacing the Export Control Act which had been adopted two decades earlier. The new act greatly liberalized restrictions on the export of goods and technology to the Soviet Union. While continuing to prohibit exports that would "make a significant contribution to the military potential" of the Soviet Union, it lifted the ban against those that would strengthen the

Soviet Union's "economic potential." The change grew out of pressure from American corporations anxious to do business with Moscow and fearful of losing contracts to competitors in Europe and Japan. But to President Nixon and his principal foreign-policy adviser, Henry Kissinger, the change had chiefly political, not economic, significance. They saw increased U.S.-Soviet trade as an essential component of détente.

The idea of using trade to promote détente with the Soviet Union did not originate with the Nixon administration. President Johnson too had expressed the desire to "build bridges" to the Communist world through trade. A special committee he appointed to look into the matter had concluded that trade could be "one of our most powerful tools of national policy," since it would enable us to "influence the internal development and the external policies of European Communist societies along paths favorable to our purpose and to world peace." Kissinger's version of this general view was the concept of linkage, according to which increased U.S.-Soviet trade would help to establish "a web of constructive relationships" that would give the Soviet Union a stake in peace by making it "more conscious of what it would lose by a return to confrontation." Finally, increased trade might also, in Kissinger's words, "leaven the autarchic tendencies of the Soviet system" and eventually lead to the integration of the Soviet Union into the world economic system and thus to the gradual liberalization of Soviet society.

The Nixon administration's eagerness to embark on this new course was evident in the terms of the trade agreement reached with Moscow on October 18, 1972. It provided both for the financing of Soviet purchases with long-term loans through the Export-Import Bank, and for a request to Congress to grant most-favored-nation tariffs for Soviet imports. Congress, however, reacting to the Yom Kippur War and the continuing harassment of Sakharov, Solzhenitsyn, and other Soviet dissidents, was in no mood to grant Moscow such generous terms. It added the Jackson amendment to the Trade Reform Act, making freer immigration from the Soviet Union the condition for lowering tariffs and qualifying for Export-Import Bank loans. Subsequently, Congress adopted the Stevenson amendment limiting Export-Import Bank credits to $300 million without further congressional approval. The Russians objected to these amendments—especially the credit ceiling, for they had been willing to compromise on the emigration issue—and in early 1975 canceled the whole agreement.

The issue of U.S.-Soviet trade became a point of controversy once again last summer when President Carter, in reponse to the trials of Soviet dissidents Anatoly Shcharansky and Aleksandr Ginsburg, blocked the sale of a Sperry-Univac computer system to the USSR and placed the export of oil and gas technology to the Soviet Union under government control. Moscow immediately charged that the President was taking a "path of confrontation," and a U.S. Commerce Department official warned that the trade curbs would have "a substantial chilling effect on exports." The Carter administration quickly backed off, and approved all 74 of the applications submitted for the export of oil technology to the Soviet Union. Last December, the President dispatched Commerce Secretary Juanita M. Kreps and Treasury Secretary Michael Blumenthal to Moscow with the message that the administation wanted more trade between the two countries and was in favor of removing some of the obstacles standing in its way—presumably the Stevenson and Jackson amendments.

It appears, then, that another round is looming in the ongoing battle over the trade issue. Once again it is being argued that the United States, with its balance-of-payments deficit running at record levels, has a vital economic stake in trade with the Soviet Union and a vital political stake as well, since closer economic ties will promote the liberalizing tendencies inside the Soviet Union and establish a foundation for improved U.S.-Soviet relations. William Verity, the chairman of Armco Steel Corporation and co-chairman of the U.S.-USSR Trade and Economic Council, said recently that "a policy of holding trade hostage for political reasons is self-defeating." And Averell Harriman, at a luncheon meeting of U.S. business leaders in Moscow, blamed U.S. congressional leaders for the "outrage that for all these years we cannot have normal trade relations with the second greatest nation in the world." In Harriman's view, which is shared by many businessmen, U.S.-Soviet trade would blossom were it not for anti-Soviet forces in this country.

And yet from a strictly economic point of view, trade with the Soviet Union hardly merits the attention that has been lavished upon it by U.S. businessmen and trade officials. In 1978, for example, the volume of trade with the USSR was $2.8 billion, an all-time high, but just over one-third the amount of trade that was carried on with Taiwan last year. One would hardly know this from comparing the sheer volume of congressional studies, books, conferences, and news articles devoted to the two subjects; and yet in a sense it is beside the point. It is not the present level of trade with the Soviet Union that excites U.S. businessmen, but the possibility of exploiting the vast, hitherto forbidden Soviet market. "Otherwise cautious executives," Marshall I. Goldman has written, "all but trample over one another in their effort to establish a foothold on this new frontier." [1]

But how new is this frontier? When the question of trade is debated, it is frequently forgotten that there are many historical precedents for the current efforts to expand trade with the Soviet Union, and while they explain why Russia is so interested in trade, they do little to justify business's continuing optimism.

There was substantial Western investment in Russia during the half-century preceding the Bolshevik revolution. The coal, iron, and steel-producing region of southern Russia was developed with capital and technical assistance from British, French, and Belgian companies, and German and Dutch firms helped develop these industries in the north. The "iron king" of Russia was an Englishman, John Hughes, who built the mining and metallurgical factories of Yuzovka—named in his honor—in the Donets Basin. The Swedish Nobel brothers developed the oil fields of Baku on the shores of the Caspian Sea, which helped make Russia the world's leading oil producer by 1901. The Trans-Siberian railway was built with Western (principally French) capital and technology, and the parallel telegraph line was built and operated by the Danes. Many American firms, too, participated in Russia's industrial development during this period. International Harvester was the largest manufacturer of agricultural equipment in pre-war Russia and Singer Sewing Machine had holdings worth over $100 million and employed a sales force in Russia of over 27,000 people in 1914.

When the Bolsheviks seized power in 1917, all this came to an end, as the new regime expropriated all Western capital investment and financial assets. But even this unprecedented act of industrial theft did not discourage Western business interests, eager to regain access to the alluring Russian market. the opportunity came soon enough. Just three years after the revolution, with the Russian economy in a state of total wreckage, Lenin invited Western firms back to Moscow and asked them to set up concessions. In the West this new policy was welcomed as a sign of moderation and a move toward "peaceful coexistence," but Lenin, as it turned out, had not ceased to be a Bolshevik. "Concessions—," he told a meeting of the Soviet Communist party in 1920, "these do not mean peace with capitalism, but war on a new plane." Lenin's sole objective was to revive Soviet industry, and, as subsequent events revealed, he had every intention of expropriating the concessions after production had been organized and sufficient capital, equipment, and skills had been brought into the country.

Nevertheless, Western firms, oblivious to the risks involved, flocked to the Soviet Union once more, bringing with them technicians, machinery, technology, and capital. From Germany came such major companies as Krupp, Thyssens, Otto Wolff, Siemens, the AEG, Junkers, Telefunken, and I. G. Farben; from the United States, General Electric, Westinghouse, International Harvester, RCA, Alcoa, Singer, Du Pont, Ford, and Standard Oil of New York. Concessions were also established by important English, French, Swedish, Danish, and Austrian companies. All told, the government granted about 350 concessions, and their impact on the Soviet economy was extraordinary. A recent study, which analyzes in painstaking detail the impact of the concessions on each sector of the Soviet economy, concluded that by 1930 there was not a single important industrial process—from mining, oil production, metallurgy, chemicals, transportation, communications, textiles, and forestry to the production of industrial and agricultural equipment and the generation of electrical power—which did not derive from transferred Western technology.[2]

If the advantages to the Soviets from all this are obvious, one is hard-pressed to identify any benefits accruing to the Western firms involved. By 1933, there were no foreign manufacturing concessions left in the Soviet Union, even though many firms had signed contracts covering periods of thirty and even fifty years. Some of the concessions were closed down by force, but the more common methods were punitive taxation, breach of contract, legal harassment, and disruptions by workers. The largest concession of all, the British mining company Lena Goldfields Ltd., had assembled its technicians, invested almost $80 million in equipment, and completed its surveys when it was attacked as a "weed in the socialist system." The OGPU raided its units, threw out many of its personnel, and jailed several of its leading technicians on charges of "industrial espionage."

In only a handful of special cases was compensation granted. Armand Hammer, who represented 38 large American firms in their dealings with Moscow and was a political sympathizer (his father had been a member of the steering committee that founded the U.S. Communist party in 1919), was compensated for the liquidation of his abestos and pencil-manufacturing concessions. (Interestingly, these were also the only concessions to earn significant profits.) The Soviet authorities also agreed to compensate Averell Harriman for the liquidation of his manganese concession in Chiaturi in 1928, but only after Harriman had agreed to arrange a long-term loan for them in the United States (aimed both at demonstrating Soviet credit-worthiness and undermining official U.S. policy against such loans). Most firms were not so lucky, however, and those which had lost their holdings once before in 1917 had the dubious distinction of being expropriated twice.

Footnotes at end of article.

Far from signaling the end of Western business involvement in the Soviet Union, the liquidation of foreign concessions marked the beginning of the most massive transfer of Western technical resources yet undertaken in the form of American assistance to the first Five-Year Plan (1928–33). The plan, still thought by many to have been a remarkable Soviet achievement, turns out to have been largely the work of American management and engineering, as Stalin acknowledged in 1944, when he told Eric Johnston, the president of the U.S. Chamber of Commerce, that two-thirds of the large industrial projects in the Soviet Union had been built with American assistance.

America's leading industrial-architecture firm, the Albert Kahn Company, was contracted to design and supervise the major units of the plan, as well as to organize Gosproektstroi, the Soviet Design Bureau. Kahn's engineer, G.K. Scrymgeour, directed Gosproektstroi and also chaired the Building Commission of the Supreme Council of the National Economy, while various other American companies got individual contracts to build the mammoth separate projects outlined in the plan.[3] Du Pont built two nitric-acid plants at Kalinin and Shostka; the Arthur G. McKee Company of Cleveland managed the construction of the steelworks at Magnitogorsk, a replica of U.S. Steel's Gary Indiana plant and the largest steel complex in the world; Colonel Hugh Cooper, the builder of the great Wilson Dam at Muscle Shoals, supervised the construction of the even larger Dniepr Dam, for which he received the Order of the Toilers of the Red Banner. In addition, General Electric built and installed the massive generators at the Dniepr and also designed the Kharkov turbine works which had a manufacturing capacity two-and-a-half times greater than its own central plant in Schenectady. The Austin Company, builder of Ford's River Rouge factory, constructed the great auto plant at Gorki (known as "the Detroit of Russia"), while the U.S.S.R.'s other auto plants, at Moscow and Yaroslavl, were built respectively by the A.J. Brandt Company of Detroit and the Hercules Motor Corporation of Canton, Ohio. Austin's John Calden (whom Maurice Hindus called "Russia's miracle man" at the time) managed the construction of the Stalingrad Tractor Plant, Europe's largest, which was first built in the United States then dismantled and shipped to Russia, where it was put together again. For this achievement (and for salvaging the construction of another plant at Chelyabinsk after an abortive effort by a Russian team of engineers) Calder received the Order of Lenin, as did his colleague, Leon A. Swajian, who was chief engineer for the construction of an identical tract or plant at Kharkov.

In 1930, Business Week proclaimed that Russia, though unrecognized politically, had "come to the aid of depressed American industry." American businessmen, delighted with these Russian contracts, looked forward to a period of expanding U.S.-Soviet trade. Unfortunately, the benefits that American business actually derived from this unprecedented burst of commercial activity proved to be meager and short-lived—as well as absurdly disproportionate to what the Russians gained. In 1930, U.S. exports to Russia reached the all-time high of $230 million, but it was still only a small fraction of total U.S. exports. By 1932, exports had dropped to less than $28 million, and the following year they dropped still further to $14 million. The Soviet government (which had sold grain to finance imports while millions of Russians starved) had simply run out of money.

But even after the Export-Import Bank had been set up in 1934, primarily to finance Soviet purchases, exports still did not increase significantly. The main reason for this was that Russia had by then attained a considerable degree of industrial self-sufficiency, made possible by the willingness of American companies to construct finished plants and assist in their duplication, and to transfer essential technology to the USSR. To its $30-million sale of auto parts, for example, the Ford Motor Company threw in an extra bonus in the form of an agreement to send its technicians to Gorki to introduce Ford production methods[4] and to bring Soviet engineers to its River Rouge plant for training. (Of the 1,039 Soviet nationals arriving in the U.S. between January 1, 1929 and June 15, 1930, 81 per cent came for industrial-training programs.)

America's wartime alliance with the Soviet Union produced still another wave of euphoria at the prospects of trade with the USSR. In 1944, soon after his meeting with Stalin, Eric Johnston wrote in Nation's Business that "Russia will be, if not our biggest, at least our most eager customer when the war ends." The following year Fortune published a poll showing business leaders to be the "most friendly" toward the USSR of all American groups and also the most hopeful about postwar relations—annual exports to Russia, the magazine predicted, would be between $1 billion and $2 billion. Alas, in 1946 annual U.S. exports to Russia, though still financed by Lend-Lease credits, totalled only $236 million, and even that level would not be reached again for more than a quarter of a century.

While the export controls imposed by the U.S. in 1949 played a part in delaying a new round of Soviet purchases, they had nothing to do with the initial drop in exports after 1946. What happened to cause this drop was precisely what had happened fifteen years earlier when Russia reverted to autarchy immediately after having absorbed an enormous amount of Western technology and equipment. Under Lend-Lease, Russia had received $2.6 billion worth of nonmilitary goods from the U.S. (in addition to $8.5 billion in military hardware), including $1.25 billion of the latest American industrial equipment. Even more significant, however, was the more than $10 billion worth of industrial and military equipment dismantled in Germany and shipped to Russia in the greatest and most systematic looting of a defeated country in the history of war.[5] From the Soviet Zone the Russians acquired several thousands plants representing 41 per cent of Germany's 1943 industrial capacity, and still more was removed from the Western Allied zones under an agreement allocating 25 per cent of the plants there to the Russians. The booty included such plants as the famous Karl Zeiss factory at Jena which manufactured optical precision instruments, and the Opel autoworks at Brandenburg. (Small wonder that the 1947 Moskvich 401 was a replica of the 1939 Opel Kadett!) Berlin's entire electrical-equipment industry was removed, as was two-thirds of Germany's aircraft and rocket industry, including the enormous underground V-2 rocket plant at Nordhausen which provided the foundation for the Soviet Union's Sputnik program.

Since specialists were needed to bring this new industrial capacity into operation and to develop it further, technicians were also shipped off to Russia. On a single night—October 22, 1946—6,000 German scientists, engineers, and aviation experts, along with 20,000 dependents, were placed on trains and transported to various points throughout the Soviet Union where German industry had been reassembled. Once again Russia had become "self-sufficient."

Contemporary champions of U.S.-Soviet trade[6] view this historical background as relevant only to the extent that it helps to explain why psychological barriers to the unrestricted expansion of commercial relations with the USSR still exist in the United States. Fears based on past experience are groundless, they argue, since the Soviet Union is a vastly different country today—less oppressive, more stable, and more committed to consumerism—than it was after the devastations of World War II, not to mention during the periods of revolutionary consolidation and forced industrialization. Samuel Pisar, for example, a leading trade advocate, is confident that the American and Soviet economic systems, at one time diametric opposites, are now "actually creeping toward convergence," a process that will accelerate if there is increased trade.

But how different is the Soviet Union today? Like every other country in the world, the USSR has of course changed over the past thirty years, but nothing has happened to alter the nature of its economic relations with the West in any fundamental way. The Soviet Union's chief priority is still the procurement from the West of advanced technology for its heavy industry (machine-building, metalworking, chemicals, and so forth). Though the new emphasis on consumer needs in the ninth Five-Year Plan (1971–75) raised hopes that the Soviet Union would enter the market for consumer goods, this emphasis was dropped when the plan was actually implemented, and the current Five-Year Plan restores producer goods to their traditional preeminence.

The continuing Soviet need for Western technology results directly from the weaknesses of its centralized, state-run, command economy. Much has been written about the inefficiencies of the Soviet economy which produces about half the American GNP using a larger workforce (and which now suffers from a labor shortage). What is not sufficiently appreciated is the degree to which the system, because of its stifling rigidity, is structurally resistant to technological innovation. This problem became acute in the 1960's with the slowdown in the Soviet growth rate and with the realization by Soviet leaders that the country could not keep pace with the West, let alone catch up with it, if it did not obtain access to revolutionary Western innovations in computers and electronics. There is no question that the need for such access was a critical factor in the Soviet conversion to détente.

Indeed, the one change that can be detected in the pattern of Soviet trade relations with the West involves the absorption of Western technology, which no longer occurs at fitful intervals, as it did in the 30's and 40's, but appears, at the moment at least, to have become an uninterrupted process.

Still, the importance of this development should not be exaggerated. It is not the result of changes that have taken place inside the Soviet Union, nor is it evidence that Russia has been drawn into "the disciplines of international economic life," as the original linkage policy had hoped. It merely means that Soviet leaders are satisfied with an economic relationship in which, according to the Soviet journal Foreign Trade (1977), the USSR "efficiently uses the benefits of the international division of labor and constantly imports technically advanced plant and the latest licenses and know-how."

And why indeed should they not be satisfied with an arrangement which virtually guarantees greater advantages to the USSR than to its Western partners? If for not other reason, the Soviet Union stands to benefit simply by virtue of its technical backwardness. During the early years of détente, for example, the Nixon administration encouraged top American firms to sign "technological-exchange" agreements with Moscow. The firms had nothing to gain technologically from such agreements, but went along with them in the hope that "exchanges" of this

Footnotes at end of article.

sort might eventually lead to large contracts. The contracts rarely materialized, but the Russians received valuable technology in the meantime. A spokesman for Control Data Corporation, which signed a ten-year agreement with the Soviet Ministry of Science and Technology that included a plan for the joint development of a new super computer, admitted not long ago that the Russians gained fifteen years in research and development by spending just $3 million over three years. And government-to-government exchange agreements, another by-product of the early euphoria over détente, have had the same result. The Apollo-Soyuz space program, one of the better known examples, has been called by Zbigniew Brzezinski "a vehicle for the one-sided transfer from the United States to the USSR of a technology that has obvious military applications."

The asymmetry of the technological "exchange" relationship is reinforced by the Soviet Union's obsession with secrecy and by its unabashedly predatory approach. While American firms are expected to be forthcoming with technical information, especially if they hope to win contracts, the Russians have been extremely reluctant to divulge information on plant operations, let alone to allow American technicians to visit the plants for which they have been asked to design systems.

At the same time, American firms have trained hundreds of Soviet technicians in the U.S., and teams of Soviet specialists—ostensibly looking into possible purchases—have been allowed to tour defense-related American plants. A member of one such group, which closely inspected the Boeing, Lockheed, and McDonnell Douglas factories in 1973 and 1974, admitted privately to a Boeing official that purchases had never been contemplated—meaning, of couse, that the group's real purpose had been industrial espionage. Within the FBI, concern has been expressed that Moscow's espionage efforts have expanded in recent years owing to the sharp increase in the number of Soviet citizen's here on official business and to the treaty arrangement allowing Soviet ships to call at 40 American ports.

Still another factor that works to the USSR's advantage is that Soviet foreign trade is a state monopoly. As the sole buyer in a situation where there are many sellers—competing American firms as well as firms from Europe and Japan—it has unequal bargaining leverage which it uses not only to bring down prices but also to secure maximum technological benefits that include the provision of technical data and licenses, extensive training of Soviet personnel, and, increasingly, longterm arrangements for the continuous supply of new technology. American firms in high-technology fields like computers, aerospace, and automotives are willing to agree to such arrangements in order to compensate for the high cost of research and development. But the end results favor the Russians, as exemplified in the Soviet purchase not too long ago of space suits for $150,000 which had cost the Americans $20 million apiece to develop.

There have even been some instances where American firms have provided valuable technology in the hope of landing a major contract, only to lose the contract to a competitor. In 1973 the Raytheon Corporation, seeking direct contract with the USSR's Ministry of Civil Aviation to promote the sale of an advanced air-traffic control system (ATC), mounted an elaborate exhibition in Moscow in cooperation with the U.S. Federal Aviation Administration. After Raytheon had invested $220,000 in the exhibition and presented plans for an ATC system more advanced than the one in the United States, the Russians asked for competing bids from four other American and two European companies. They also indicated in the course of the negotiations that an American bid would receive more favorable attention if it were accompanied by an offset purchase of Soviet-made YAK-40 jet aircraft, and if the U.S. granted increased landing rights to Aeroflot. In all, the U.S. companies spent over $500,000 and provided the Russians with quite a lot of valuable technical work before the contract was awarded to a Swedish-Italian consortium.

Not all the American firms dealing with Moscow have been quite so unsuccessful as Raytheon, but according to a prominent U.S. businessman quoted in a recent report in the Wall Street Journal, "Nobody is doing the business he expected." (Even the modest U.S. export figures—$2.26 billion in 1978—overstate the amount of trade carried on by high-technology firms, since agricultural products account for more than 75 per cent of U.S. exports to the Soviet Union.) In addition, U.S. businessmen stationed in Moscow have had to work under extremely trying conditions: the enormous, impenetrable Soviet bureaucracy; the bugging of their offices, conference rooms, and private residences by what the Journal report called "the omnipresent official eavesdroppers"; the fear for their personal safety, as pointed up by the arrest last June of International Harvester's F. Jay Crawford.

Still, it is all worth it in the opinion of Harold B. Scott, the former president of the U.S.-USSR Trade and Economic Council, for the Soviet Union "will one day be the largest market in the world. The systems put in place there now will determine the patterns of trade. Now is the time when it is crucially important to put our technology there."

With all due respect to Mr. Scott, it is hard to believe that this perpetually alluring Russian market really exists, or if it does exist, that it will one day be ours, especially if we continue to "put our technology there," as he urges. Why should such a market come into being when by selling whole factories (called "turnkey" plants) and training Soviet personnel, we help Russia produce by itself what it might otherwise have to buy from us or from other Western countries? Ironically enough, the way trade has been conducted with the Soviet Union not only does not discourage those autarchic tendencies Kissinger was talking about, but actually reinforces them, even as Soviet purchases of Western technology continue.

Many businessmen claim that the chief obstacle to more U.S.-Soviet trade is the Jackson amendment tying lower tariffs to freer emigration. But even if the USSR were granted most-favored-nation tariffs, Soviet exports to the U.S. would still not increase significantly (which means that its ability to import American goods would also not increase by very much). Even now, the great bulk of Soviet exports consists of raw materials and semi-manufactured goods which are not subject to discriminatory tariffs. The only exports which would be affected if the Jackson amendment were withdrawn are manufactured goods, and there just is not very much of a market in the U.S. for Soviet products.

The congressional limitation on Export-Import Bank credits is far more important in this connection since the Soviet Union simply does not have the hard currency to finance its purchases. The amendment limiting credits, adopted in 1974 in the climate of growing disillusionment with détente, resulted in the U.S. government's withdrawal from a reckless economic venture, the financing of the huge Soviet-bloc debt. This debt was about $8 billion at the end of 1970. By the end of 1975, it had mushroomed to $38 billion, according to an estimate by the Chase Manhattan Bank, and by 1976, it had increased still further to $48 billion. Today it has reached $55 billion and is still growing. At a ministerial meeting of the OECD in June 1976, Henry Kissinger described the debt surge as "sudden" and "striking" and went on to raise questions about its economic and political implications. Kissinger also voiced concern that the debtor countries had acquired substantial leverage over the creditor countries through the latter's fear of default.

The Soviet Union's lack of hard currency has led to another practice which also skews the trade relationship in its favor. This is the so-called compensation agreement whereby a Western firm builds a plant in a Communist country and supplies equipment and know-how in return for part of the plant's eventual output. Once again, the advantages of this arrangement to the Soviet Union and its satellites are considerable. They not only increase their production with Western financing and advanced machinery and technology, but are also given access to Western markets in the course of "repayment"—and all this without spending any hard currency. The advantages to Western firms are cheap, strike-free labor (which, however, means a loss of jobs in the West) and access to untapped sources of raw materials. At the same time, however, they risk substantial losses if the market is glutted at the time of repayment, which is what happened to Armand Hammer's Occidental Petroleum, for instance, in its $20-billion fertilizer deal with the USSR.

Furthermore, they have no protection against repayment in substandard products, or against market disruption if the Communists, seeking hard currency or market penetration, choose to dump goods in the West. Fiat, for example, had no idea that it was creating a trade rival when it built the Volga Auto Plant at Togliatti (since it was assumed that Soviet domestic needs would easily absorb the plant's production). But the Fiat-like Lada is being sold right now in Europe and Canada at well below the cost of production. Similarly, unions throughout Europe's depressed chemical industry have expressed alarm that the products of the massive petrochemical plants to be built with Western support at Tomsk and Tobolsk will one day flood the European market.

In addition to the problems of market disruption and job displacement, Western firms run the added risk—always present when dealing with Communist countries—that political relations may deteriorate before compensation has been received. In some agreements the payback period is twenty years, a longer time than "détente" (by any prudent estimate) can be expected to hold up. If the Russians, for whatever reasons, should decide to cancel the compensation agreement at any time during that period, it will not do a Western firm much good to know that its collateral consists of oil pipelines buried beneath the Siberian steppes, or industrial machinery installed in Tobolsk. The knowledge that their investments have made them hostages to political circumstances could well turn Western businessmen into fervent defenders of appeasement.

Among votaries of U.S.-Soviet trade, however, the idea that political relations might deteriorate even in the face of expanded trade is virtually ruled out, since it is taken as axiomatic that trade will strengthen the liberalizing, peaceful tendencies in the Soviet Union. This is an old notion. In 1922, British Prime Minister Lloyd George said that trade "will bring an end to the ferocity, rapine, and the crudity of Bolshevism surer than any other method." In our own time it is widely believed that trade, in Daniel Yergin's words, "draws the Soviet Union into the community of advanced industrial nations." From this point of view, of course, trade with the Soviet Union is valuable even if it does entail certain economic disadvantages. But is there any evidence so far of this happy outcome?

The view that trade will lead to liberaliza-

tion in Russia is partly based on the not illogical belief that exposure to the West will encourage the development of Western norms and values in the USSR. Unfortunately, the present Soviet leaders, like the Czars before them, are as mindful of this possibility as anyone else, which is why they take great care to shut out Western cultural influences even while helping themselves to Western products and technology. To realize how far the Soviet authorities are willing to go to prevent any contacts from taking place outside of very tightly controlled official channels, one need only think of the confiscation of follow-up cards passed out at a seminar in Moscow conducted by Singer personnel, or the removal of subscription forms from all copies of *Aviation Week and Space Technology* distributed at the Raytheon exhibition, or the totally self-contained office, hotel, and apartment complex for foreigners that is being constructed in Moscow—the modern equivalent of the *Nyemetskaya Sloboda*, or "foreigners' quarter" (literally, "German Quarter") built by Vassily III almost 500 years ago.

But the Soviet regime not only isolates Westerners, it also tightens internal controls to prevent Western influences from seeping through. Particularly during periods of détente—the last decade is a good example—there seems to be an increased tendency for the regime to step up repression and ideological vigilance. All of this would seem to suggest that trade does not promote liberalization, and may actually have the opposite effect.

The fact, too, that trade is used as a way to obtain the technology needed for rapid modernization means, in the context of a command economy, that it is frequently associated with forced industrialization and the use of slave labor. The program of Westernization under Peter the Great was achieved at the cost of immense sacrifice and suffering imposed on the Russian people. Two centuries later, Stalin's first Five-Year Plan, which marked another period of intense absorption of Western technology, took an even greater toll in freedom and human life.[8]

The argument is also made—again to show the link between trade and freedom—that the Soviet Union must liberalize its system in order to solve its economic problems, and that increased exposure to our superior economic methods will encourage Soviet leaders to take this course. This argument might be valid if the Soviet leaders were interested in nothing more than promoting economic efficiency and technological innovation. But they also have a stake in maintaining their totalitarian system which is inherently inefficient and uncreative. If this fundamental contradiction were allowed to work itself out, it might conceivably lead to real reforms inside Russia, but Soviet leaders have been able to avoid the choice bettween reform and stagantion precisely by turning to the West for totalitarianism's "missing dynamic." (It is instructive to recall that Brezhnev's decision to import Western technology on a large scale followed a brief but politically costly experiment in the 60's with economic decentralization.)

Thus trade, by injectiing into the Communist system the technological innovations without which it could not survive but which it cannot achieve on its own, actually helps to sustain totalitarianism.

The strategic as well as the moral implications of this fact have thus far been ignored. The idea that trade promotes East-West peace, central to the thinking of those who shaped the policy of détente, remains basically unchallenged among U.S. policymakers today, despite evidence that the increase in trade since 1970 has not been accompanied by reduced Soviet military spending or greater moderation in the Middle East, Africa, or elsewhere. In fact, increased trade (or, more specifically, the increased pace of technology transfers) has been accompanied by the continuing buildup of Soviet military forces and by a greater Soviet readiness to intervene in local conflicts.

Pre-revolutionary Russian history offers numerous examples of the rules of Russia importing technology from the West to strengthen their country's military capacity. And far from ending the practice of importing Western technology for military use, the Bolshevik rulers have simply recast its revolutionary terms. Occasionally these acquisitions have been accomplished by theft—as in the case of the atomic espionage of the 40's—but more often the same result has been achieved through political and trade agreements, in accordance with Lenin's famous statement that the capitalists "will supply us with the materials and technology which . . . we need for our future victorious attacks upon our supplier."

In the 20's Germany was the main foreign source of military assistance. Thereafter, the United States took over, becoming the main supplier of military-related technology, along with Germany and Britain, until the cold war. Fertilizer plants supplied by the West were used to produce explosives, machine plants turned out gun barrels, and—most important—the automotive industry which had been set up by U.S. firms produced tanks and armored trucks.[9] For years after World War II, Lend-Lease transfers and the dismantling of German industry were providing the Soviet Union with the foundation for military production.

This process is still going on today. Indeed, there is now a growing concern in the United States that the technology we have already supplied to the Soviet Union, particularly in the computer field, has contributed to Soviet advances in strategic weaponry and strengthened the USSR's overall economic and military capability. The president of Texas Instruments, J. Fred Bucy, who chaired the Defense Science Board Task Force on the Export of U.S. Technology, told a Senate panel in 1977 that "the transfer of militarily significant technology has been of major proportions," and the full consequences of this development "will become evident over the next five years."

Presumably the U.S. government approves only technology transfers which have no military significance, but the problem is that most modern technologies have both civilian and military uses. The air-traffic control system, for example, can also be used for air defense and vectoring fighter aircraft; the semiconductor technology used in computers has numerous military applications, including missile-guidance systems; technology for the manufacture of wide-body aircraft and high-bypass turbofan jet engines can be used in the production of military aircraft. And while precision ball bearings certainly have many industrial uses, they are also essential for the production of the guidance mechanism in MIRV warheads.

The problem is further complicated by the fact that the technologies of greatest interest to the Soviet Union are first developed by the private sector in the U.S. for commercial use, and are only later adapted to military programs. As Bucy pointed out, this means that "increased pressures for commercial trade with the USSR and its Comecon partners may result in the flow of significant technologies before similar technologies are applied to advanced weapon systems in the U.S."

To add to the problem, many Soviet factories have both civilian and military lines of production. It would be most surprising, for example, if the Western-built Kama River truck factory, which is slated to be the largest industrial complex in the world, did not produce military vehicles upon its completion, in addition to diesel trucks and engines. This has been standard procedure in Soviet motor plants for some time, and, given the regime's obsessive secrecy—which is not, after all, a psychological aberration but has a rational purpose—it will be impossible to verify whether or not the Kama plant is producing for the military. Indeed, when one considers for a moment that military production is the first priority of the centralized Soviet economy, and that it is the sector in which the best available technological and human resources are concentrated, the notion that imported Western technology will not be used for military purposes seems rather farfetched.

Nor need this technology be directly used by the military in order for it to be "militarily significant." Even if applied to industry, it serves the purpose of freeing scarce research talent for military work. It seems perfectly obvious that if foreign technology relieves the labor shortage by modernizing Soviet industry, it makes it easier for Moscow to maintain a standing army of 4 million men. And if this modernization is financed with Western credits, it reduces the burden of a military budget that now consumes somewhere between 11 and 15 per cent of the Soviet GNP.

An example of how technological transfers to Russia of great strategic importance can take place with the approval of the U.S. government is provided by the recent controversial sale by Dresser Industries of a $144-million turnkey plant for the manufacture of deep-well drilling equipment. This particular deep-well technology is needed by the Soviet Union if it is to develop major new oil reserves, an urgent priority since it is now expected to become a net importer of oil by the mid-1980's. Lacking adequate energy sources, the Soviet economy's growth rate could slow to about 3 per cent, which would make it exceedingly difficult for Moscow to continue to increase military spending by 4 to 5 per cent every year, or to finance Cuban expeditions to Africa. Hence the Soviet interest in American oil technology.

Nevertheless, last summer, only weeks after President Carter announced that the government would assume control over all sales of oil technology and equipment to the Soviet Union, the administration approved the Dresser sale. Its reasoning, summed up by the Washington Post in an approving editorial, was that "the technology is widely available" outside the U.S., and that in view of the energy shortage "it serves American interests to get the maximum number of explorers "into operation as soon as possible."

The administration appears to have given no consideration at all to the strategic significance of this sale, which greately enhances the USSR's oil-production capabilities by giving it the capacity to manufacture premium rock-drill bits equal to the entire U.S. output, and greater than the Soviet Union's anticipated deep-well drilling requirements for the 1980's!

In the controversy surrounding the sale, attention was focused on only two items of the manufacturing equipment which were thought to have possible military application. These two items were subsequently approved by the Defense Department, despite expert opinion which held that one of them could produce armor-piercing projectiles. Senator Jackson, chairman of the Senate subcommittee which investigated the sale, cited pressure by both the Commerce Department and Dresser Industries as a factor that "may have contributed to what ap-

Footnotes at end of article.

pears to have been a less than thorough assessment of national-security questions."

Following protests by Energy Secretary Schlesinger and members of the National Security Council, approval of the sale was suspended pending a review by a special task force of the Defense Science Board. The task-force report concluded that the deep-well technology in question "has strong strategic value in its application to Soviet energy needs of the 1980's" and that it is "wholly concentrated in the U.S.," thus giving this country effective control over its export to the Soviet Union. The report also pointed out that the transfer of this technology to the Soviets would allow them "to enter world markets with advanced drilling capabilities," thereby enabling them to increase their presence and influence in the Middle East and other oil-producing areas of the world. On the question of the two supporting technologies which the Defense Department had previously approved, the report concluded that both would contribute significantly to the Soviet Union's military potential.

Despite these warnings, the President approved the Dresser sale a second time. Subsequently, he told a news conference that the administration takes adequate precautions "to be sure that we are not deliberately or inadvertently giving to [Communist] countries a means by which their military capability would be greatly escalated. This would be contrary to the existing law."

But what exactly did the President mean when he used the words "greatly escalated" here? The ambiguity of the formulation cannot be attributed only to the informal conditions prevailing at a news conference. It also serves to point up the fact that the United States does not at present have an effective or even coherent policy governing the export through commercial trade of strategic technology to the Soviet Union. The agency authorized to control commercial exports affecting national security is the Commerce Department, and since this department is interested primarily in promoting trade and reducing the U.S. balance-of-payments deficit, these considerations play a great part in influencing judgments on what is "militarily significant."

But the fundamental reason for the absence of a sound policy in this area is political. As long as it is assumed that trade promotes peace, no matter what is being traded, the problem of the flow of strategic technology to our principal adversary is not likely to be given serious consideration.

The argument heard most often—that controls cannot work since other nations will export what we embargo—is a rationalization for having no policy at all. In the Dresser case, for instance, there was no foreign producer the Russians could have turned to if we had denied the sale, but we approved it nonetheless. It is hard to see how the U.S. can expect to gain the cooperation of its allies in denying strategic technology to the Soviet Union if we ourselves continue to supply it in abundance. In fact, the relaxation of U.S. controls over the last decade is a major reason for the diminishing effectiveness of CoCom, the international body established in 1950 to regulate the export of strategic items to Communist nations.[10]

Only a rigorous control policy can be expected to shore up the faltering CoCom arrangement and win broad support in the U.S. The objective of such a policy need not be to restrict trade with the Soviet Union, but only to shut off the flow of strategic technology in accordance with the Defense Science Board's crucial distinction between products and technology—that is, between the item produed and the know-how required to produce it.

This distinction did not matter so much thirty years ago, when the U.S. and its CoCom allies first attempted to work out a control policy for trading with the Soviet Union. At that time a favorite Soviet method of acquiring technology was to copy Western prototypes which had been procured through single-item purchases. But as technology became more complex and the pace of technological change increased, this kind of "reverse engineering" became less feasible—by the time a process had been mastered and brought to production the product would have become obsolete. So the Russians naturally dropped their interest in individual products, and turned instead to the direct acquisition of critical technologies and production capability.

Control policies, however, have been oblivious to these changes and are still focused on the regulation of product transfers, so that items of secondary importance to the Soviet Union are now regulated while the U.S. and other Western countries actually encourage the transfer of what the Russians want most. We now have a policy, in other words, which allows Western firms to build whole production facilities in the Soviet Union, transfer vital manufacturing information, and train Soviet personnel, while withholding one particular item in the sale because it is on the CoCom list of embargoed goods. Small wonder that our allies are cynical about it.

It seems clear that this must change. While controls on selected critical products should be maintained, policy must be revised to take account of the central importance of technology transfers which contribute in any way at all to the Soviet Union's military and industrial strength. To be sure, in a world where technology is widely diffused, a policy aimed at denying the Soviet Union access to such technologies cannot be airtight. But as Fred Charles Iklé, the former director of the Arms Control and Disarmament Agency, has observed, "gradual seepage is one thing. It is quite another matter to expedite the spillage of some of the most advanced and complex technologies." And even if Soviet acquisition of such technologies cannot be prevented, it can at least be delayed, which may serve to maintain and perhaps extend what is called "the strategic lead time" of the United States over the Soviet Union. Our present lead in strategic technologies, estimated at three to ten years, is smaller than it was before "détente," but it is still a factor that restores some stability to the growing imbalance between U.S. and Soviet military forces.

Despite the current avidity for trade, it should be possible to win at least a measure of business support for a policy of stricter controls on technology transfers to the Soviet Union. In his new book, A Time for Truth, former Treasury Secretary William E. Simon traces the history of U.S. business aid to the Soviet Union by way of demonstrating the economic superiority of capitalism over Communism. But except in a footnoted afterthought in which he calls the whole enterprise "desperately unwise," Simon never comes to grips with the basic question of who stands to benefit most from current U.S.-Soviet trade ventures. Lenin put it rather succinctly in his famous question, "kto kogo?" ("Who [will defeat] whom?"), and perhaps it is time this question was asked by more than a small handful of business leaders. Capitalism is indeed more efficient than Communism, but if this very efficiency is used to sustain and fortify the enemies of free society, does this not, in the words of Seymour Martin Lipset, constitute "the ultimate failure of capitalism"?

But business need not even bother about such ultimate conclusions in order to support a policy of controls on the transfer of technology to the Soviet Union—it need only recognize its own economic self-interest. The transfer of production capability will dry up markets and create competitors far sooner than it will enhance trade or profits. All it takes is one firm—poorly managed, perhaps, and needing a Soviet deal to balance its books—to transfer the technology of an entire industry; surely this consideration should provide sufficient incentive for business to demand an effective policy of controls. Then, too, there is the question of the competitive disadvantage individual firms now face in negotiating with the Soviet state trading monopoly. Should not businessmen see the need for a central clearing house for U.S.-Soviet trade to offset this disadvantage?

A policy of control on technology transfers differs significantly from the so-called policy of "economic diplomacy" which has stirred up so much pointless controversy in recent months. The former would shut off technology transfers to the Soviet Union while the latter would offer technology as an incentive to moderation and deny it as punishment for hostile acts. But "economic diplomacy" is no substitute for a policy of military deterrence, and common sense should dictate that anything the Russians might want badly enough to forgo opportunities for expansion is probably something they should not have in the first place. A policy of controls, on the other hand, would not be tied to politics, but for reasons that should already be clear, it could in the long run limit the Soviet Union's ability to threaten the security of the West.

The denial of foreign technology might very well succeed—where the present policy has failed—in bringing about a greater degree of decentralization and liberalization within the Soviet Union, but such a policy should not be aimed at changing the Soviet system. Nor should controls be loosened in response to favorable Soviet gestures on human rights. Technology is too valuable to be turned into a pawn in a game which the Soviet Union could easily manipulate in its favor. (This criticism, incidentally, does not bear upon the Jackson amendment, which in any case does not offer technology in exchange for freer emigration but only a modest amount of hard currency in the form of credits and lower tariffs on Soviet imports. There is nothing wrong with buying people's freedom, which is what the Jackson amendment amounts to. On the contrary, it is an objective worthy of a democratic society.)

It is difficult to speculate on future trends inside the Soviet Union and more difficult to influence them from the outside. If we have learned anything at this late date in our relations with the USSR it is that interaction with the West does not necessarily yield helpful results, and that the rich creations of a free system become distorted when absorbed by a system that is not free. Those who wish to build bridges to the East through trade might recall that Brezhnev, on the eve of détente, observed that "scientific-technical progress has now become one of the main bridgeheads of the historical struggle of the two systems."

It would be ironic if the one system able to generate such progress lost the struggle because it lacked the wisdom to understand its advantage and the will to protect it.

FOOTNOTES

[1] *Détente and Dollars: Doing Business with the Soviets*, Basic Books, 1975, p. 5.

[2] See Anthony C. Sutton's *Western Technology and Soviet Economic Development 1917-1930*, Hoover Institution Publications, 1968. Two subsequent volumes by Sutton describe the transfer process and assess its contribution to Soviet economic development for the periods 1930–45 and 1945–65.

[3] Anthony C. Sutton, in this context, defines the phrase "built by Western companies" to mean not just the management of construction and equipment installation, but also the supply of technology, patents, engine-test results, and operator training, as well as supervision of the plant during its

initial period of operation. The Russians supplied labor, semi-fabricated materials, and middle-level engineers whose chief job was to learn from the Americans.

[4] One of these Americans, Victor Herman, has just published an extraordinary memoir of his experiences in Russia (*Coming Out of the Ice*, Harcourt Brace Jovanovich, 369 pp., $12.95). At the age of sixteen, Herman accompanied his family from their home in Detroit to Gorki, where they were planning to stay for three years working in the auto plants. He ended up spending forty-five years in Russia, eighteen of them in the Gulag, where he encountered many Americans. Herman describes his ordeal with an austerity that makes it all the more horrifying. He claims to be the only survivor of all the men, women, and children from the American village at Gorki who were sent to the Siberian camps—forgotten victims of an earlier period of Soviet-American "cooperation."

[5] Germany was not the only country looted by Russia. A U.S. mission headed by Ambassador Edwin Pauley in the spring of 1946 concluded that Russia had dismantled and removed $895 million worth of industrial equipment from Manchuria. In addition, $400 million worth of equipment was taken from the Soviet Zone in Austria, while peace treaties with Finland and Rumania resulted in the transfer of $600 million of equipment.

[6] See, for example, *The Psychology of East-West Trade*, by Zygmunt Nagorski, Jr., Mason & Lipscomb, 1974.

[7] *Coexistence and Commerce: Guidelines for Transactions Between East and West*, McGraw Hill, 1970, p. 8.

[8] The American-Russian Chamber of Commerce, whose board included representatives of the top American corporations doing business in Moscow, did what it could to whitewash the Soviet Union on charges of forced labor during this period. In a speech at the Bankers Club in New York in 1932, Colonel Hugh Cooper said that "The Chamber has made a real study of these charges. It has obtained signed statements from many leading American businessmen, who have actually been to Russia and have personally observed labor conditions there, and I am glad to say that not one of these men think labor in Russia is forced." Since American firms instructed their engineers not to discuss conditions in the USSR, only the apologists were heard from. Alcan Hirsch, who supervisted the construction of the Du Pont nitric acid plant at Chernorechenski, claimed in his book, *Industrialized Russia* (1934), that while the Soviet Union had "not as yet reached unprecedented eminence in the arts, science, or industry, . . . sociologically it is far ahead of the rest of the world." With all the attention paid to intellectual fellow-traveling with Stalinism in the 30's, it appears that the subject of business complicity has been sorely overlooked.

[9] Much of this was known to American officials. In 1933, for example, the American engineer, Zara Witkin, who supervised construction of some of the "secret industry" plants in Russia (Eugene Lyons called this task "the most important given to any single foreign specialist"), told a U.S. Consul in Poland that every tractor plant "is of course a tank factory and an automobile plant [is] a factory which may at any time produce mobile artillery."

[10] CoCom's full name is the Coordinating Committee of the Consultative Group of Nations, and its membership consists of NATO nations (except Iceland) and Japan. It maintains a common list of embargoed strategic items.

CARTER BEGINS DRIVE TO STEP UP SOVIET TRADE

The Administration will move quickly in coming weeks to step up exports to the Soviet Union. Eager to increase trade with the Peoples Republic of China, the Departments of State, Treasury and Commerce have convinced the White House it must also take positive steps to reassure the Soviets that we are not tilting in favor of Peking.

Thus, as the Washington Post reported last week, the Administration has launched a "diplomatic initiative" to press for the resumption of U.S. trade and tariff benefits for the Soviet Union—all before President Carter meets with Soviet chief Leonid I. Brezhnev to sign the SALT II agreement June 15 in Vienna.

To this end, Secretary of State Cyrus Vance and Secretary of the Treasury Michael Blumenthal met with Soviet Ambasador Anatoly F. Dobrynin April 27 to stress the Administration's commitment to increased trade. And they discussed, frankly, ways to circumvent the Jackson-Vanik amendment of 1974 which has limited East-West trade.

That amendment, adopted at a time the Soviets were engaged in brutal persecution of their dissidents, makes freer emigration from the USSR the price for lowering U.S. tariffs and qualifying for Export-Import Bank loans. Asserting that the Congress had no right to interfere in their "internal affairs," the Soviets cancelled the 1972 trade agreement designed to increase commerce between the two nations.

Under the terms of the 1974 law, the President can grant trade benefits for one year if he receives "assurances" that Soviet policies will in the future "lead substantially" to freer emigration. Some State Department lawyers argue that the "assurances" must be in writing. Others—aware that the Soviets are unlikely to provide written guarantees about their "internal" affairs—have suggested that the assurances can take some other form.

Thus the April 27 meeting. According to the Post, Vance and Blumenthal stated it was the Administration's understanding that the recent liberalization of Soviet emigration policies has become the norm and is expected to continue. If Moscow will accept this, Washington will consider the transaction to be the necessary assurances under the Jackson-Vanik amendment.

How Jackson will react to the Administration interpretation of his statute was not known at press time. He is known, however, to be gravely concerned that in pushing detente the Administration has completely disregarded the strategic consequences of its technological exports.

Last summer, for instance, in the wake of the trials of Soviet dissidents Anatoly Shcharansky and Alexander Ginzburg, President Carter announced that he was placing the export of oil and gas technology to the Soviet Union under government control.

When Moscow issued a blustery attack on Carter's decision, the Administration backed away. All 74 of the applications for export of the oil technology were quietly issued. As Carl Gershman notes in a brilliant article in the April Commentary, the $144-million Dresser industries deal approved by Carter conferred enormous strategic benefits:

"This particular deep-well technology is needed by the Soviet Union if it is to develop major new oil reserves, an urgent priority since it is now expected to become a net importer of oil by the mid-1980s. Lacking adequate energy sources, the Soviet economic growth rate could slow to about 3 per cent, which would make it exceedingly difficult to increase military spending by 4 or 5 percent every year, or to finance a Cuban expedition to Africa. Hence the Soviet interest in American oil technology."

Energy Secretary James Schlesinger and members of the National Security Council raised similar objections, and a special task force of the Defense Science Board was set up to study the deal. The task force concluded that the deep-well technology "has strong strategic value in the 1980s" and that it is "wholly concentrated in the United States," thus giving us the power to deny critical oil technology to the Soviets.

The report also noted that the transfer of the technology would enable the Kremlin "to enter world markets with advance drilling capabilities," thereby permitting them to increase their presence and influence in the Middle East and other oil producing areas. Finally, the report concluded that two of the items involved in the deal could enable the Russians to manufacture armor-piercing projectiles, clearly increasing their military potential.

Nevertheless, the President himself approved the sale. It was only the latest in a long line of strategic items which profit-hungry businessmen have funneled to the enemy. As a former Polish intelligence officer, Michael Checinski, has reported, "every machine, device, or instrument imported from the West is sent to a special analytic group. Their job is not only to copy technical solutions, but to adapt them to the specifications of the Soviet military."

Consider the 1972 approval of the sale of 164 Centalign-B machines, and accompanying technology, to produce miniature ball bearings. This windfall drastically reduced the time required by the Soviets to improve the accuracy of their missile warheads. As a result, says former CIA official Cord Meyer, "the U.S. must spend $30 billion on new mobile missiles because of the vulnerability of our fixed silos."

Meyer also cites a recent Soviet defector still under security wraps who has spelled out just how the export of technology for peaceful purposes can backfire. Equipment sold to the Soviets to modernize their weather forecasting has been secretly diverted to improve the efficiency of their spy satellites.

There is a sense of *deja vu* in all of this as the Administration moves to remove the few remaining curbs on Soviet bloc exports in an effort to build the profits of American business and somehow improve East-West relations. Solzhenitsyn referred to it in his June 1975 speech to the AFL–CIO:

"I must say that Lenin foretold this whole process. Lenin, who spent most of his life in the West and not in Russia, who knew the West much better than Russia, always wrote and said that the Western capitalists would do anything to strengthen the economy of the USSR. They will compete with each other to sell us goods cheaper and sell them quicker, so that the Soviets will buy from one rather than from the other. He said: 'They will bring it themselves without thinking about their future.' And, in a difficult moment, at a Party meeting in Moscow, he said: 'Comrades, don't panic, when things go very hard for us, we will give a rope to the bourgeoisie and the bourgeoisie will hang itself.'

"Then, Karl Radek . . . who was a very resourceful wit said: 'Vladimir Ilyich, but where are we going to get enough rope to hang the whole bourgeoisie?' Lenin effortlessly replied: 'They'll supply us with it.'"

WILL HOUSE BEEF UP USSR MILITARY CAPABILITY?

At the precise moment the Administration has begun a determined drive to expand U.S.-Soviet trade, the intelligence community has informed Rep. Richard Ichord (D.-Mo.) that the Russians have illegally diverted for military usage American technology poured into the Soviet Kama River truck plant.

Ichord is chairman of the Research and Development subcommittee of the House Armed Services panel. In hearings on May 23, Ichord, basing his information on a classified intelligence document and testimony on Hans Heymann, the CIA's national intelligence officer for political and economic affairs, told witness Stanley Marcuss, a sen-

ior Department of Commerce official, "We know for a fact that the Kama River project was diverted to military use." Heymann confirmed to Ichord that some 50,000 diesel engines annually produced by the plant were being installed in military vehicles.

Ichord later informed a Human Events reporter that the Soviets were using U.S. technology furnished for the Kama River plant to produce "armored personnel carriers and assault vehicles," the latter a euphemism for tanks and heavy assault guns. Kama River technology, in fact, has reportedly been incorporated into the most advanced Soviet battle tank, the T-72, now being introduced into Central Europe.

Started in the early 1970s, the Soviet plant, supposedly designed for the production of civilian vehicles, has been largely constructed with advanced American technology. Donald E. Stingel, president of Swindell-Dressler Co., which was the principal engineering contractor for this huge project, testified before Congress on April 23, 1974, that his firm was providing the Soviets with a technology that had not even been realized in the United States.

The plant is scheduled to have an annual production capacity of 250,000 10-ton multiple-axle trucks, "more than the capacity of the entire U.S. heavy-duty truck industry," noted Miles Costick in his study, "The Strategic Dimensions of East-West Trade." The Kama River project's foundry, the largest and most modern in the world, is completely automated and equipped with one of the biggest industrial computer systems extant, courtesy of IBM. The foundry will be capable of manufacturing no fewer than 350,000 diesel engines annually.

The irony, wrote Costick, is that the project will have the "capacity to produce tanks, military scout cars, rocket launchers and trucks for military transport, but it was approved by the Commerce and State Departments as 'non-strategic'!"

The Kama River diversion was not the only explosive news to come out of the hearings, though it may have the most significant impact on the Congress in terms of dealing with the East-West trade issue.

Rep. Larry McDonald (D.-Ga.), a member of the Ichord panel, also brought out another critical point: that the United States, not our European allies, has taken the lead in undermining the CoCom strategic trade list. All the member nations that comprise NATO (save Iceland) and Japan have drawn up a common list of items—the CoCom list—that they agree will not be sold to the Soviet bloc because of their potential military value. Over the years, the U.S. government has alleged that the Europeans have been taking the lead in trying to make the list less restrictive.

But McDonald's questioning prompted Administration officials to admit, at least indirectly, that the U.S. has taken the lead. McDonald, for instance, asked Marcuss if some of our allies didn't think we were being hypocritical about the list because of the number of times this country has sought waivers of various items. Marcuss initially replied: "From time to time we hear that argument, but it's not credible in our view."

But Larry Brady, acting director of the Export Administration, who accompanied Marcuss, later released figures showing that in 1978 the U.S. sold 1,050 restricted CoCom items to the bloc, receiving more than 62 per cent of the waivers granted.

Brady also acknowledged what Commerce has denied in the past—that it is extremely difficult to find out if the Soviets divert our technology for military use. Although the Soviets must sign a statement pledging not to use American technology for such purposes, Brady admitted that U.S. safeguards "have only marginal utility." Thus, despite the "safeguards"—which largely consist of U.S. company executives informing Commerce if their supplies are being misused—the Soviets could easily be engaged in a massive effort to divert U.S. technology for military purposes. And judging from those Kama River intelligence reports, they are.

While this information was tumbling out of the Ichord hearings, however, the House moved a step closer to passing a new bill (HR 4034) which will actually expand trade with the Soviets and even loosen restrictions on items of trade with military potential.

Reported out of the Foreign Affairs Committee on May 15 and expected to come to the House floor in the next week or two, the bill has as its primary sponsor Rep. Jonathan Bingham (D.-N.Y.). The chairman of the panel, Rep. Clement Zablocki (D.-Wis.), is also a sponsor, as, surprisingly, is Rep. Robert Lagomarsino (R.-Calif.), a conservative. Indeed it is clear that even conservative members of the Foreign Affairs Committee who are not sponsors, such as Representatives Ed Derwinski (R.-Ill.) and Dan Quayle (R.-Ind.), appear unconcerned about the measure insofar as it would vastly increase Soviet opportunities to receive the most advanced American technology.

Yet the Bingham bill is considered "disastrous" for the U.S., according to such Red trade experts as Costick. The Pentagon's role in determining what goods should be sold to the Soviet Union, for instance, has been considerably reduced. Under the Jackson amendment as it applies to present law, the President, if he overrules the Defense Department's objection to the sale of a certain item, must submit a report to Congress telling why. But this requirement for a report has been eliminated, thus clearly making it easier for this soft-on-Red trade President to veto the Pentagon.

Of even greater consequence is the so-called "indexing" provision, which comes close to mandating that the secretary of commerce make important U.S. technology available to the Soviets on a steady basis. Indeed, this provision calls for the secretary of commerce to annually remove U.S. technology from the restricted list.

"In order to ensure that requirements for validated licenses and qualified general licenses are periodically removed," this section says, the secretary may "provide for annual increases in the performance levels of goods of technology subject to any such licensing requirements." In sum, the secretary of commerce can unilaterally remove huge quantities of computers and machine tools from our restricted list by simply claiming that the newest technology makes even advanced but less new technology out of date.

Still another gigantic loophole eliminates any right on our part to block Western Europe or Japan from reselling our technology to the Soviet bloc or other enemy or adversary nations. That section reads that "no condition shall be imposed by the United States" on such reselling ventures.

While this bill is marching through the House (with a similar version being readied by Senators Proxmire and Stevenson in the upper chamber), conservatives, moderates and liberals who oppose expansion of Soviet trade are rallying around H.R. 3216, a bill mainly sponsored by Representatives Clarence Miller (R.-Ohio), Richard Ichord (D.-Mo.), Lester Wolff (D.-N.Y.) and Robert Dornan (R.-Calif.).

That measure would drastically change the method by which export licenses for the Soviet Union are approved, shifting the major responsibility from Commerce and the State Department to the Pentagon. Many think it will be offered in whole or in part as an amendment to the Bingham measure when it reaches the floor. And if it fails to win, the Soviets are almost certain to be the beneficiaries of even more advanced U.S. technology.

As Rep. Miller testified before Ichord on May 15, there is already considerable evidence that U.S. technological sales to the Soviets in recent years have enabled them to perfect the guidance systems and MIRV capabilities for their monster SS-18 intercontinental missiles which so threaten our nation. And Congress, it seems, may end up fortifying our enemies even more.

PROPOSED SHIPMENT OF BALL BEARING MACHINES TO THE U.S.S.R.

The Senate Subcommittee on Internal Security has undertaken its investigation of this matter not in any desire to find scapegoats, but because we felt that the larger issue involved in the Bryant case was, potentially, of life-or-death importance to America and the free world. We are now convinced, for reasons that are set forth below, that the decision to grant the license was a grave error—an error in judgment which stems from a more basic error in procedure.

In justifying the decision to grant the license for the export of the Bryant machines to the Soviet Union, Secretary Mueller wrote to Senator Dodd on January 18:

"We had originally issued the licenses on evidence which satisfied us that: first, denial of the licenses would not be effective in preventing or significantly delaying procurement of substantially comparable machines (our emphasis) by the U.S.S.R. from other sources than the United States; and second, the potential output and utilization of the machines is not such as to represent a significant strategic hazard to the United States. And because our denial action would not be substantially effective from a national security standpoint, its only result would be to withhold a business opportunity from a member of a particular American industry * * *."

With minor modification, this, in essence, has been the position of the Commerce Department in its testimony to the subcommittee and in subsequent correspondence.

This position was restated by Secretary Hodges in his letter of February 9 to Senator Dodd. The letter reads in its concluding paragraph:

"May I emphasize, in closing, I made the decision to release the Bryant machines for shipment to the Soviet Union on the basis of the best technical information and evaluation that was available to me. This technical information was to the effect that the national interest would not be prejudiced by the export of these machines by an American company, but on the contrary our national interest would be served. In my own judgment of the matter I have paramounted considerations of security and have given only secondary consideration to the commercial or trade aspects."

Any Secretary of Commerce, by the nature of things, must rely on the reports of his experts for guidance in such matters. One of the serious questions raised by this investigation is whether the Secretary of Commerce has had at his disposal the highly specialized expert opinion which is essential in making determinations about highly specialized machinery.

The conflict of testimony between the Commerce Department and Defense Department revolved around the following points:

(1) The Defense Department and Miniature Precision Ball Bearing Co. (hereafter referred to as MPB) held the Bryant Model B Centalign machine to be unique. The Commerce Department said that equal, or approximately equal machines could be obtained from European firms or built by the Soviets themselves.

(2) MPB emphasized that the function performed by the Bryant Model B machine is of critical importance in facilitating the mass production of high precision miniature bearings. The Department of Commerce and

the Bryant Co. contended that it is simply one among many equally important functions in the production of precision bearings.

(3) The Defense Department and MPB contended that the possession of these machines would enable the Soviet Union to produce smaller and better missile guidance systems, gyros, and other military items. The Bryant Co. held it probable that the Kremlin plans to use these machines for the manufacture of bearings of lower quality, largely destined for conventional uses.

The subcommittee was greatly impressed by the testimony of the Miniature Precision Ball Bearing Co. and of others who opposed the shipment. But to help throw some independent light on the matter, Senator Thomas J. Dodd, on behalf of the subcommittee, asked for the opinions of 12 private experts in the ball bearing field.

So that they would be familiar with arguments on both sides, the experts we retained as consultants were provided with transcripts of the hearings on the proposed export of the Bryant machines plus the briefs submitted by the Bryant Co. and MPB. They were encouraged to contact the Bryant Co. and the Miniature Precision Ball Bearing Co., and other companies in the field.

All told, we have now received opinions from 12 men recognized as experts in the ball bearing field. Eleven of them are Americans, one is an Englishman. A list of our consultants, stating their present positions and their qualifications, is appended to this report. We have also taken testimony, in a staff interview, from a Russian expert employed by the Library of Congress, who has made an intensive study of the literature relating to the Soviet ball bearing industry.

The list of our consultants is attached to this report. Their statements are printed in the hearing record.

We believe that this testimony gives overwhelming support to the stand taken by the Department of Defense in this matter, and to the arguments presented by MPB in opposing the shipment. This testimony establishes conclusively (1) that the miniature bearings produced with the help of the Bryant machine are used primarily for defense purposes; (2) that the function performed by the Bryant machine is of critical importance; (3) that no comparable machines can at present be obtained from other sources; (4) that Soviet industry has not been able to master the problems involved in mass producing high precision miniature bearings; that the industry is in fact plagued by poor quality and obsolete equipment; that, with its own resources, it would probably take a number of years to develop the capability; (5) that the possession of these machines would greatly accelerate Soviet mastery of the art of miniaturization.

Before proceeding to the recommendations which we wish to submit, we think it would be helpful if we briefly summarized some of the high points of this testimony, and recapitulated some of the essential facts.

1. At least 85 percent of the bearings manufactured with the help of the Bryant machine are used by defense industries:

Subject machine is a key factor in the economical production of the highest quality ball bearing parts. It enables us to produce a bearing assembly of the highest precision for many important Department of Defense applications, such as the latest guidance systems, navigation, fire control, computer, synchro and servo mechanisms used for aircraft, ordnance, ships, missiles and other space vehicles (statement of Mr. J. R. Tomlinson, president, and Mr. B. L. Mims, vice president in charge of engineering, the Barden Corp., Danbury, Conn.).

2. The function performed by the Bryant machine is of critical importance:

The outer ball track grinding operation is one of the last and most vital of those performed on the bearing outer ring. It is the operation which, until the advent of this machine, could probably be called the bottleneck opposing the precision performance of miniature bearings. The necessary perfection of other operations has been achieved 5 to 20 years ago (statement by Mr. H. B. Van Doren, vice president in charge of engineering, Fafnir Bearing Co., New Britain, Conn.).

3. The Bryant machine is unique in its field: Secretary Mueller in his letter of January 18, 1961, to Senator Dodd, said that "substantially comparable" machines could be obtained from other sources. Mr. Bradley Fisk, Assistant Secretary of Commerce for International Affairs, in his testimony before the subcommittee on January 24 said that there are "five factories outside of Russia that could make similar machines" (p. 156, transcript). It was not clear from his statement whether the companies he named do, in fact, make such machines, or whether they are theoretically capable of making them. A careful check has revealed that none of the companies named by Mr. Fisk produce machines that can be considered equal or "substantially comparable" to the Bryant machine.

(i) The Manganti Co. of Italy was one of the five listed by Mr. Fisk. Miniature Precision Ball Bearing, in its memorandum to the subcommittee, pointed out that it—

"Was consulted as to the capabilities of the Italian machine when it was in the final stage of development and obtained samples of bearings in late July (1960), tests upon which were completed in August. It was found that on "concentricity of bore" 90 percent of the bearings were not within the allowed tolerance and 30 percent had to be rejected because the bore roundness was not within the specified tolerance."

Such a machine cannot be considered "substantially comparable."

(ii) UVA of Sweden was another company named by Mr. Fisk. Mr. Stanley Hensby, technical director of the EMO Instrumentation Co. of Bracknell, England (an affiliate of the Barden Corp.), cabled this information on the UVA "machine" in response to a query from the subcommittee.

UVA: No equipment machine available. Work is now progressing in field and machine will probably be shown at Brussels show on September 2–12. Feel that it would take several years before production of this machine would become surplus to SKF requirements and available to world market.

A machine that will not be commercially available for several years cannot, again, be considered "substantially comparable."

(iii) The Studer Co. of Germany was also included in the list submitted by Mr. Fisk. Studer machines are in operation, under the same roof as Bryant machines, in both the Barden Corp. of Danbury, Conn., and in the EMO Co. of England. Eyewitness testimony on the relative working capabilities of the Studer machine is therefore available.

Mr. Hensby of TMO said in his cable:

"Studer: No equivalent available. Studer approach is for universal application rather (than) mass production. We have several of these machines in use. Only suitable for small-scale production."

Mr. Tomlinson and Mr. Mims of the Barden Corp., reported:

"* * * the Studer grinder, manufactured in Germany, is a machine which the Barden Corp. has recently purchased and is using in its experimental laboratory in Danbury. This machine is basically a very accurate toolroom machine, but it is not capable of producing accurate bearing races in large quantities with great efficiency."

Such a machine can also not be considered "substantially comparable."

(iv) The Voumard Co. of Switzerland was the fourth company named by Mr. Fisk. The Voumard machine was examined at the Swiss Industries Fair in Basel in the spring of 1960 by Mr. Donald Williams, chief process engineer of the New Departure Ball Bearing Co. Mr. Williams reported that—"these machines were presumably capable of relatively accurate work. However, these machines do not incorporate features such as fully automatic cycles, including loading and unloading, centerless chucking, and automatic wheel dress and compensation, which are considered prerequisites for production equipment. The Bryant Model B Centalign machine incorporates all of these features."

So much for the fourth "substantially comparable" machine.

Why has American industry been able to produce a machine that the European machine tool industry, with all its capabilities, has thus far not approached? The answer to this was stated by Mr. Tomlinson and Mr. Mims.

"It seems quite logical that, since the large market for highly precise bearings in the United States is supported almost entirely by the Department of Defense, there would be no reason for anyone in Europe to have manufactured a machine tool specifically for highly precise miniature bearings, since the quantities of these bearings used in Europe have been infinitely small compared to the quantities used in the United States."

4. Soviet industry, left to its own resources, is years removed from the production of a machine comparable to the Bryant model B.

Mr. Fisk in his testimony gave some credence to reports that the Soviets were on the verge of producing a comparable or even superior machine.

Mr. Joseph Gwyer, senior research specialist of the Library of Congress had this to say on the subject of the capabilities of the Soviet ball bearing industry and of that portion of the machine tool industry that supplies it:

"During the last year, the Soviets published a terrific amount of data on the ball bearing industry, the difficulties the Soviet ball bearing industry is facing today, and the availability of modern technologically advanced equipment suitable for the manufacture of ball bearings."

Mr. Gwyer quoted an article in the Soviet "Economic Gazette" (Aug. 27, 1960) as stating that the ball bearing industry had received little of the equipment planned for it, that the production of centerless grinders was entrusted to the Vitebsk Plant, which is not in a position to cope with this task, that the Saratov Machine Tool Plant and the Voronezh Plant had not yet produced internal grinders that satisfy the needs of the industry.

The articles published during the fall period of 1960—said Mr. Gwyer—"have created great concern. As a result of the reports showing the great deficiencies in precision machine tools specifically used by the bearing industry, the Council for Automation and Mechanization, with the Council of Ministers, initiated a field survey during which the machine tool plants responsible for manufacturing equipment for the ball bearing industry were visited. The findings of this special group, or this special investigating body, showed that the complaints were justified, and consequently, the Committee for Automation and Mechanization set a number of points, clarification points and recommendations, in order to improve the condition or actually remedy this situation."

Gwyer quoted a report in the Economic Gazette of October 20, 1960, as stating that "production problems of automatic size control equipment have not been solved for

centerless grinders." In the same issue of the Economic Gazette, it was pointed out that it had taken 5 years to build the prototype of a semiautomatic internal grinder, after the machine had first been designed, that this prototype was only half as fast as the machine it was designed to replace, and that it did not produce a cylindrical surface.

Bryant Co., in defending the shipment, argued that, if the Soviet Union could not buy the machines, it would copy them, and little would be gained from a national security standpoint. In support of this, it is pointed out that the Soviet Government is already in possession of certain assembly plans for the Bryant machine.

Addressing himself to this point, Mr. Henry Konet, consulting engineer in the field of instrumentation, said:

"It is necessary to distinguish between giving away secrets, know-how and capability. Our manufacture of these small devices is no secret—even the manner is not difficult to determine—but the capability to do it well and economically has taken years to develop and should not be sold to a potential adversary. * * * The situation is not one of selling our adversary a 'club'—but machines which help to produce better 'clubs,' faster and cheaper."

When queried about this matter, several of the committee's consultants estimated that, if the Soviets had to build the machines on their own, it would take at least another year to manufacture 45 machines. Mr. Gwyer's estimate was even more pessimistic.

He said that the—"copying of equipment of the nature of precision machine tools enters into a new realm, where the Russians have demonstrated inability and consistent failures * * *."

He pointed out that the Bryant machine was much more complex than the internal grinder which had taken 5 years to move from design to prototype. On the basis of their past record, Mr. Gwyer estimated that it might take the Soviets as long as 5 years to build a prototype of the Bryant machine, iron out the bugs, and then build 45 machines of high quality.

Whether it would take 5 years or 2 years, or 1 year, our national security obviously demands that we stop helping Soviet industry, especially the Soviet defense industry, to overcome its weaknesses. It demands, on the contrary, that we inflict delays on them whenever this is in our power, that we make things more difficult for them rather than easier.

Based on the testimony given at our hearings and on the additional statements which we herewith transmit, the Senate Subcommittee on Internal Security is strongly of the opinion that the machines in question should not be shipped to the Soviet Union.

The Soviets have a considerable edge over us in the thrust of their rockets. We have compensated, or more than compensated for this disadvantage by our own very considerable lead in miniaturization and high-precision instrumentation. If the Soviets could ever achieve near equality with us in these areas, their lead in missile thrust would become a very serious matter.

Before they can close the miniaturization and precision gaps, the Soviets will have to develop an ability similar to our own to mass produce quality miniature bearings. Their press indicates that they are intent on doing this; and this is confirmed again by their eagerness to acquire the Bryant machines. They can obtain, or have already obtained from European sources, machine tools used at other points in the process of manufacturing precision miniature bearings. What they cannot obtain in Europe is a machine equivalent to the Bryant machine in the critical process of grinding the races.

There are 72 Bryant model B machines installed in the United States. We have been informed that on these 72 machines, all of the precision miniature bearings used by the Department of Defense are, at one point, processed. The 45 machines that will be shipped to the Soviet Union, unless the Bryant license is revoked, include 35 of this model, thus will give them a capability half as large as our own.

If we ship these machines, therefore, we will endow them with a readymade ability to produce precision miniature bearings in quantity. If we withhold these machines, it will almost certainly take them another several years to achieve this capability.

There can be no doubt about the course we should follow.

The subcommittee believes that the Bryant Chucking Grinder Co. acted in good faith and followed all the established procedures in arranging for the export of the Bryant grinders to the Soviet Union. Is it to be noted in this connection that it waited until the Department of Commerce had approved the sale before it concluded the contract.

The subcommittee also recognizes that in delivering plans, or partial plans, for the assembly of the Bryant grinder to the Soviet purchasing agency, the Bryant Co., was following an accepted and unavoidable procedure which is the natural concomitant of the sale of equipment. The subcommittee believes, however, that in future, companies which obtain Department of Commerce approval for shipments of machines tools or other complex equipment to the Communist bloc, should be instructed to wait until their equipment has been shipped before transmitting assembly plans or other technical diagrams.

LIST OF INDEPENDENT EXPERTS RETAINED AS CONSULTANTS BY THE SENATE SUBCOMMITTEE ON INTERNAL SECURITY IN THE MATTER OF THE BRYANT EXPORT LICENSE

Mr. Richard H. Valentine, director of research and development, New Departure Co., Bristol, Conn.

Mr. Seth H. Stoner, general manager, New Departure Co., Bristol, Conn.

Mr. D. L. Williams, chief process engineer, New Departure Co., Bristol, Conn.

Mr. Kenneth V. Knebel, general works manager, New Departure Co., Bristol, Conn.

Mr. J. R. Tomlinson, president, Barden Corp., Danbury, Conn.

Mr. Bruce L. Mims, vice president in charge of engineering, Barden Corp., Danbury, Conn.

Mr. E. J. Karkut, vice president in charge of manufacturing, Barden Corp., Danbury, Conn.

Mr. H. B. Van Dorn, vice president in charge of engineering, Fafnir Bearing Co., New Britain, Conn.

Dr. Charles Stark Draper, professor and head of the Department of Aeronautics and Astronautics and director of the Instrumentation Laboratory, Massachusetts Institute of Technology.

Mr. William G. Denhard, assistant director, instrumentation laboratory, Department of Aeronautics and Astronautics, Massachusetts Institute of Technology, Cambridge 39, Mass.

Mr. Henry Konet, consulting engineer in instrumentation, Konet Co., Hohokus, N.J.

Mr. John S. Towresey, consulting engineer (in ball-bearing field), the Franklin Institute, Philadelphia, Pa.

Mr. Stanley Hensby, technical director, EMO Instrumentation Co., Bracknell, England.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Robert Russell, Andrew Carothers, and Bruce Hubbard of my staff and the Banking Committee staff, and Ellen Lessard of Senator EAGLETON's staff be given the privilege of the floor during consideration of this bill and all amendments thereto.

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

Mr. BAYH. Mr. President, will the Senator be kind enough to add Chris Aldrich and Eve Lubalin to that list, please?

Mr. STEVENSON. Yes, Mr. President.

Mr. DOMENICI. Mr President, will the Senator yield for a unanimous-consent request?

Mr. STEVENSON. Of course.

Mr. DOMENICI. I ask unanimous consent that Bruce Barr and George Ramonas of my staff be granted the privilege of the floor also.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, the objectives of the proponents and opponents of this amendment and others which may be offered by the distinguished Senator from Washington are the same. Our objective is to strike a fair balance between the necessity of national security on the one hand and a strong, competitive economy on the other. The risk is that the balance will not be struck and that the United States will, once again and in the name of national security, shoot itself in the foot, depriving itself of national security.

Technology tends to float in the winds, and the United States no longer is the dominant resource of technology in the world.

More technology is now created outside of the United States than within. Often a control on technology by the United States simply gives the business to some other nation, a foreign competitor of the United States, with the result that our economy is hurt, that the technology is transferred, and without the safeguards that are frequently associated with transfers of U.S. technology.

So the result is not only injury to our economy, but also to our national security.

This argument so far implies there are no controls on technology. Well, that is nonsense. There are controls and there are effective controls.

In fact, the Defense Department has never been turned down by the Department of Commerce. In every instance in which it has sought controls on exports of technology, it has been granted the controls by the Department of Commerce.

I suggest to the Senate that the administration of export controls will not be improved, as this amendment intends, by spreading and dividing the authority for the imposition of controls.

The lead agency for that purpose is now the Department of Commerce. But in exercising that authority, it is required by law to consult with the Department of Defense. During those consultations, the Department has adequate opportunity to identify critical technologies, to urge controls where they are necessary for purposes of national security, and, in all such instances, they are granted and will continue to be granted.

I do not mean to suggest the administration of export controls cannot be improved. It can be. The recommendations of the Defense Science Board Task Force for improving controls are being implemented now and they are being implemented within the existing framework. We do not need to change it in order to improve it.

But some of the statements about the inadequacy of the present procedures for the imposition of export controls on technology are very misleading, and in certain respects they are not true.

The Kama River truck factory has been cited. Well, there were no diversions in that case because there were no controls in that case.

The decision was made by the Nixon administration to permit the exports to go forward without safeguards or end use controls. So there were no such controls to have been violated in that instance.

Why the administration at that time took that position, I cannot say. But the reason may have been the obvious one, that, had the United States not got the business, it would have gone to Italy, and how would the authority of the United States be enhanced in this world, or its economy strengthened, by simply giving the business to the Italians?

The Italians supply the factories for the manufacture of automobiles. They could do so for trucks. And if not the Italians, the West Germans or the Japanese could supply them.

Engines are engines, and trucks are trucks, and it is naive to think nations, especially a great superpower, is not going to get them by one means or another.

The main point is that there were no controls and, therefore, there could not have been any diversions.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter to me dated June 18, from the Secretary of Commerce setting forth the facts in this matter.

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

WASHINGTON, D.C., *June 18, 1979.*

Hon. ADLAI E. STEVENSON, III,
Chairman, Subcommittee on International Finance, Committee on Housing, Banking and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: In the course of testimony before the Subcommittee on Research and Development of the House Committee on Armed Services, the Deputy Director of the Office of Export Administration, Lawrence J. Brady, testified that trucks produced at the Kama River truck factory in the Soviet Union were being "diverted" to military use in violation of U.S. export control restrictions.

That testimony has led to newspaper stories implying that Soviet military capability has been helped as a result of an apparent lack of vigilance by this Department. This is in error.

As you know, our nation no longer enjoys a favorable balance of trade, and thus the promotion of exports is more important than ever before. Even so, the national security is paramount, and we must be careful that we do not export materials and technology that would advance at our own expense the military capabilities of other nations. To walk this line is a difficult and delicate job. That is why it is essential that issues which may arise be discussed on the basis of accurate information.

First, there was no "diversion" in connection with the Kama River truck factory and, therefore, no violation of U.S. export controls.

A diversion occurs only when end-use restrictions pertaining to a license are violated. The Kama River truck plant licenses were issued during the Nixon Administration and contained no restrictions which we can identify limiting the use of the trucks and engines produced at the factory. Accordingly, military use of the trucks or engines produced at Kama River would not constitute a diversion or violation of the law because the licenses contained no restrictions pertaining to the use of those trucks or engines. Nor would any military use of Kama River trucks or engines entail diversion of the foundry's computer, because limitations on the use of the computer pertained to use of its computing capacity, not to use of products manufactured at the foundry. Several of the licenses contain technical conditions which have nothing to do with limitations on the use of the factory output.

This view is confirmed by the attached memorandum from Mr. Brady which concludes that a thorough review, which was requested by Senior Deputy Assistant Secretary Stanley J. Marcuss, has failed to disclose the existence of any document which could be construed as a limitation on the use of the factory output for civilian as contrasted with military purposes. Two exceptions mentioned in the memorandum are not relevant to the Kama River plant.

Second, at the time the licenses were issued, the Nixon Administration knew of the possibility that Kama trucks or engines could be used by the Soviet military. This factor apparently was fully considered before the decision was made. Thus it cannot be said that this matter was overlooked or that the export control system failed to ensure that all revelant factors were considered.

Finally, contrary to some press reports, Mr. Brady has not been "demoted" nor has any action been taken against him. He retains his position as Deputy Director of the Office of Export Administration, a position he has held for the last five years. Because of his position as Deputy Director, Mr. Brady served as Acting Director of the Office of Export Administration in the period between the retirement of the previous director and the appointment of the new one.

I hope this will lay to rest the misinformation which has recently surrounded this subject.

Sincerely,

JUANITA M. KREPS,
Secretary of Commerce.

WASHINGTON, D.C., *June 22, 1979.*

Memorandum for: Robin B. Schwartzman, Deputy Director, Bureau of Trade Regulation.

From: Lawrence J. Brady, Deputy Director, Office of Export Administration.

Subject: Kama River Case File.

On June 22, 1979, pursuant to your request, I thoroughly reviewed the relevant export license applications and supporting documents submitted by various U.S. firms seeking Department of Commerce authorization to export commodities to the USSR's Kama River Project. The results of this examination, with two exceptions, failed to disclose the existence of any document which could be construed to represent an agreement between parties or assurances as to the specific application of products, i.e., military versus civilian, in the truck manufacturing process.

The exceptions are found in license applications case numbers 813124 and 849801. Case number 849801 contains a "letter of protocol" between Mack Trucks, Inc., and a Soviet trade delegation indicating that the trucks assembled at Kama River would be used for agricultural and industrial purposes.

A copy of the protocol is attached.

With regard to the protocol, I am concerned that because Mack Truck pulled out of the deal after signing the protocol, which you will note also included other parties, including SATRA, it may not be considered relevant to subsequent licensing actions. I intend to go through all of the license applications to see whether or not we referenced the protocol in subsequent license actions. I think we did. I am also sending you separately a copy of the entire "front office" file on KAMA.

Also attached is a June 14 memorandum Dick Isadore prepared on the basis of a quick review of all license applications for the KAMA River plant.

WASHINGTON, D.C. *June 14, 1979.*

Memorandum for: Lawrence Brady.

Subject: Kama River Truck Plant Licenses.

At your request all case files which could be identified as part of the Kama River Truck complex have been retrieved from Archives.

Staff members reviewed each case file, examining all documents including actual applications, supporting documents, Single Transaction Statements, internal memoranda and chron sheets for any indication which would show:

1. Limitation on the truck usage for civilian versus military applications.
2. Conditions attached to individual licenses.
3. Letters of conditions attached to licenses.

Over 175 case files were reviewed and there was no indication of limitation of use for the trucks to be produced at Kama River. The computer equipment licenses issued to IBM have the visitation conditions which are a part of all major computer sales to Bloc countries.

At the time these licenses were issued, they were microfilmed and sent to Archives. The procedure did not include microfilming letters or supporting documents accompanying licenses as is done now in our microfiching processes. We are retrieving these microfilm files and will review the face of all licenses issued to insure that conditions were not typed on the license itself.

All cases and the Capital Goods & Production Materials Kama River file have been given to Paige Bryan.

RICHARD ISADORE.

Mr. STEVENSON. Mr. President, I also have a letter from Mr. Charles Duncan in his capacity as the Deputy Secretary of Defense, dated July 20, 1979, in which he expresses the views of the Department of Defense on this amendment.

Let me read from the letter:

The Department of Defense supports the Administration's position on the amendments which are expected to be offered to S. 737, the Export Administration Act of 1979.

Most of these proposals do not impact directly on the Department of Defense. Two, however, do and we are opposed to both of them. One would tend to reverse the relative roles of the Secretary of Defense and Secretary of Commerce in reviewing and revising export controls maintained for national security purposes. While the intent appears to be to insure that the Department of Defense has an adequate role in the export control system, it is our judgment that the Secretary of Defense already has and exercises adequate authority in this area.

Mr. President, I ask unanimous con-

sent that the letter be printed in the RECORD.

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

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C. July 20, 1979.

Senator ADLAI E. STEVENSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: In response to your letter of July 19, 1979, the Department of Defense supports the Administration's position on the amendments which are expected to be offered to S. 737, the Export Administration Act of 1979.

Most of these proposals do not impact directly on the Department of Defense. Two, however, do and we are opposed to both of them. One would tend to reverse the relative roles of the Secretary of Defense and Secretary of Commerce in reviewing and revising export controls maintained for national security purposes. While the intent appears to be to insure that the Department of Defense has an adequate role in the export control system, it is our judgment that the Secretary of Defense already has and exercises adequate authority in this area.

The other amendment would authorize inclusion in the Defense budget of funds especially appropriated for export control functions. Our opposition to this proposal is that such an authorization is not currently needed.

By means of a separate letter, I plan to answer the other questions you raised about the adequacy of U.S. export controls maintained for national security purposes. In the meantime, I thought it might be helpful to let you know at once where we stand on the amendments issue.

Sincerely,

C. W. DUNCAN, Jr.

Mr. STEVENSON. Mr. President, I have another letter from the Assistant Secretary of Defense for International Security Affairs addressed to me and dated July 20, 1979, which says, in reference to the Kama River truck plant, as follows:

The Kama River Truck Plant licenses for the foundry and production machinery were issued during the Nixon Administration and contained no restrictions so far as we know limiting the use of the trucks and engines produced in the factory. Accordingly, use by the Soviet military of the trucks produced at Kama or inclusion of the engines in military vehicles would not constitute a violation of U.S. export control restrictions. Whether and if so to what extent Kama River engines are being used in Soviet military vehicles has not been verified. Accordingly, there is no basis on which a judgment can be made about the contribution such use might make to the Soviet military potential.

In other words, not only could there have been no diversions, because there was no safeguard or end use restriction, it cannot even be verified that there has been any use of engines or trucks from this plant for military purposes.

Now, this letter, Mr. President, goes on to address other amendments which may be offered.

I ask unanimous consent that it be printed in the RECORD.

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

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., July 20, 1979.

Hon. ADLAI E. STEVENSON III,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: We have reviewed your 19 July 1979 letter in which you requested Department of Defense views on several amendments which are expected to be offered to S. 37. Our views on the questions raised in your numbered paragraphs are as follows:

1. The Kama River Truck Plant licenses for the foundry and production machinery were issued during the Nixon Administration and contained no restrictions so far as we know limiting the use of the trucks and engines produced in the factory. Accordingly, use by the Soviet military of the trucks produced at Kama or inclusion of the engines in military vehicles would not constitute a violation of U.S. export control restrictions. Whether and if so to what extent Kama River engines are being used in Soviet military vehicles has not been verified. Accordingly, there is no basis on which a judgment can be made about the contribution such use might make to the Soviet military potential.

2. A number of technologies employed in the Cruise Missile System can be exported to most non-Communist countries without a validated export license. None of them, however, are either sensitive or "critical" because they are not unique to cruise missile design, development or production and are readily available in a number of countries in the West. Those few technologies which are both unique to cruise missiles and available only in the U.S. require validated licenses from either the Departments of State or Commerce. An example is the technology associated with the small jet engine which is currently under development for the cruise missile. This technology can only be exported under a Munitions license.

3. The existing allocation of responsibility under the Export Administration Act for export controls does not hinder the Department of Defense's efforts to formulate a list of critical military technologies or otherwise interfere with the implementation of an effective anl fully adequate system of export controls for national security purposes. In particular, the Department of Defense would oppose any amendment which would tend to reverse the relative roles of the Secretary of Defense and the Secretary of Commerce in reviewing and revising export controls maintained for national security purposes. It is our judgment that the Secretary of Defense already has and exercises adequate authority in this area.

4. Statutory authority is already available to embargo exports of "critical" goods and technologies to all controlled country destinations. We would oppose any amendment which would make this a mandatory requirement because, on the one hand, the items to be covered are not presently fully determined, and, on the other hand, there may be occasions, even though rare, on which such action would be, ill-advised.

With regard to end use statements and safeguard provisions, we do not regard them as applicable to transactions in which technology, either in the form of technical data or equipment from which technology may be extracted, is involved. It is our judgment that technology once transferred can be neither controlled nor recalled. We consider the usefulness of safeguards as limited to hardware items whose diversion to other than their stated purpose we wish to deter. We do not count end use statements as a safeguard.

As for computers, there are some applications for which we have unable to devise technically and economically feasible safeguards. These are automatically recommended for denial. For others, experienced USG technical and intelligence experts have determined that safeguard provisions, judiciously applied, provide a reasonable assurance of detecting and thus deterring significant diversion of the system from its stated end use.

5. The Department of Defense has no evidence that Moscow has used American seismic equipment to enhance its anti-submarine warfare potential or that American machine tools for producing precision ball-bearings have probably helped Soviet engineers to develop multiple warheads for new intercontinental missiles.

I trust this is the information you desire.

Sincerely,

DAVID E. MCGIFFERT.

Mr. STEVENSON. Mr. President, in sum, I commend the Senator from Washington for his concern about the transfer of technology which could have adverse national security implications for the United States. I share that concern, but existing procedures are adequate. Existing procedures are being improved. The danger of this amendment is that by transfering this authority and changing a procedure which is adequate and is functioning adequately, we will end up harming ourselves economically, and with no improvement in our national security.

So I hope the Senate will reject this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. I yield myself such time as I may require.

Mr. President, I ask unanimous consent that Peter Clark and Jacques Gorlin, of Senator JAVITS' staff, have the privilege of the floor during the consideration of this measure.

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

Mr. HEINZ. Mr. President, I associate myself with the comments of the Senator from Illinois (Mr. STEVENSON), regarding Senator JACKSON's amendment.

I say to my good friend the Senator from Washington that I do share his many concerns, and I compliment him on being a very consistent and a very thoughtful advocate of maintaining a strong national defense and making sure that our defense is in no way dissipated through thoughtless moves by any administration.

Nonetheless, Mr. President, I oppose this amendment because I really do not think it accomplishes the goal the Senator from Washington wishes to achieve. Also, it would create a terribly complicated and counterproductive situation for those seeking to export, those who do not export, and those who do not seek to export critical technology.

I suspect—this is hypothesis, but it is hypothesis based on the Senator from Washington's discussion of the Kama River Truck Plant—that what he really seeks to do is to try to constrain the President. In the case of the Kama River

Truck Plant, it was President Nixon and Secretary Kissinger who simply, I suspect, told the Defense Department to lie low, and that they would impose, for foreign policy reasons, a decision to go ahead and build the Kama River Truck Plant.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. HEINZ. I yield.

Mr. JACKSON. I think the Senator might be interested to know that then Secretary of Defense Melvin Laird took a very strong position against the position taken by the Commerce Department and the State Department. He believed that there was a significant risk that the Kama River Plant would turn out military vehicles. It is rather interesting, and I want to give Melvin Laird credit for his foresight. They went ahead, nevertheless, and overruled Melvin Laird in that situation.

Mr. HEINZ. Mr. President, I am glad that the Senator from Washington put that on the record, because I think it illustrates exactly the problem, the problem with which this amendment does not deal.

The real objective of the Senator from Washington is to find a way to constrain a President's foreign policy. I must say that I share the concern of the Senator from Washington about this President's foreign policy. I wish I knew what to do about it.

However, the fact is that I do not think that legislating a procedure, as this amendment would do, which attempts by a cumbersome legislative process, after the fact, to second guess a Presidential decision in foreign policy by indirect means, is the way to do this.

The Senator from Washington has a very interesting amendment that I think he intends to bring up later today, which would require the President, when he seeks to override the advice of the Defense Department, to put that on the record. The Senator from Pennsylvania has no objection to that.

I say to the Senator from Washington that it is problematical whether a very loyal Secretary of Defense, loyal to the President, will handle the business of the Defense Department in such a way that that record will be necessary, but in some instances it may. I have no objection to that approach. It deals with the problem. This amendment, I fear, does not.

What it does, Mr. President, is to change the whole thrust of our Export Administration Act. It really will give—for the first time—very significant authority to the Defense Department over the Secretary of Commerce on these critical technology issues.

So far as we have been able to tell on the record, the Secretary of Commerce never has overruled—in any administration that we have been able to research—the recommendations of the Defense Department on the commodity control list. Obviously, there have been instances in which Presidents, as is their due in foreign policy under our Constitution, have overridden the Defense Department. But I think the amendment of the Senator from Washington seeks to impose a brandnew bureaucratic maze that does not deal with the problem and will only slow down our ability to export those items we need to export.

Let me give the Senate one example. One of the items on the commodity control list right now—or at least it was until recently—is a microprocessing unit. That microprocessing unit is available currently at the low bargain price of $12.95 from Radio Shack anywhere in the United States.

We cannot export—or at least until recently, we have not been able to export—that microprocessing unit because the Secretary of Commerce, being true to the Department of Defense, which listed this microprocessing unit as critical technology, has been restrained from exporting it, despite the fact that the Soviets or the Chinese or the Albanians or Idi Amin, if he were still with us today, could walk into Radio Shack and buy a dozen or several thousand.

So I say to the Senator from Washington that I understand his goal. But what his amendment seeks to do would not in any way achieve that goal.

To the contrary, it would change the system and would make it even more complicated for us to consider questions of foreign availability, because the Secretary of Defense would be publishing this list and the Secretary of Commerce could only consult. If the Secretary of Commerce found that there was broad availability of microprocessing units at Radio Shack for $12.95, for example, he would have to seek an appointment with the Secretary of Defense to try to convince him. But we do not need that extra layer of bureaucracy.

I urge my colleagues to bear this in mind and to reject the amendment of the Senator from Washington.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I ask unanimous consent that the name of the Senator from New Mexico (Mr. DOMENICI) be added as a cosponsor of amendments 340 through 352.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 423

(Purpose: To clarify the responsibility of the Secretary of Defense to prepare lists of critical goods and technology)

Mr. STEVENSON. Mr. President, I send to the desk an amendment to the amendment.

The PRESIDING OFFICER. The Chair informs the Senator that the amendment to the amendment is not in order until the time has been used or yielded back on the first amendment.

Mr. STEVENSON. I ask unanimous consent that the amendment be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 423 to amendment No. 340.

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

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

The amendment is as follows:

Strike lines 1 through 4 on page 1 and lines 1 and 2 on page 2 and insert in lieu thereof the following:

"On page 60 at line 25, strike the word "The" following the period and insert in lieu thereof the following:

"The Secretary of Defense shall bear primary responsibility for indentifying such militarily critical goods and technologies. Takng this fully into account, the Secretary of", ".

Mr. HEINZ. Mr. President, I ask unanimous consent that the Senator from Illinois add me as a cosponsor.

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

The Senator from Illinois.

Mr. STEVENSON. Mr. President, as I indicated earlier and as has the distinguished Senator from Pennsylvania, we have the same objective as the distinguished Senator from Washington.

Mr. JACKSON. There is no question about that.

Mr. STEVENSON. And we have, as the Senator from Washington indicated, been working to try to resolve our differences on this subject.

This amendment, I hope, does so. It leaves the responsibility in the law for the imposition of export controls where it is, in the Secretary of Commerce. But it also recognizes, as does the amendment offered by the Senator from Washington and his distinguished cosponsor, that the primary responsibility for identifying such militarily critical goods and technologies should rest with the Secretary of Defense.

I think with this clarification we can accomplish our purposes, that is to say, protect the national security against improvident exports of technology without unnecessarily injuring our economy and hence our national security.

So I am hopeful that the distinguished Senator from Washington will accept this as an amendment to his amendment.

Mr. JACKSON. Mr. President, I commend the Senator from Illinois (Mr. STEVENSON) for his cooperation as well as the understanding and support of the Senator from Pennsylvania (Mr. HEINZ).

I am pleased to accept it.

I understood, and I understand that is the situation, that the goods and technologies identified by the Department of Defense will go on the critical list and that in that connection, in connection with this amendment, the Department of Defense will consult with other departments, agencies, advisory committees, and others within the executive branch so that there is some coordination in the administration of the program. But, as the amendment states, the Secretary of Defense shall have "primary responsibility."

I take it that the authors of the amendment have that same understanding as to how it shall be administered.

Mr. STEVENSON. Mr. President, we have no misunderstanding. It is our pur-

pose to require such consultation and indeed the bill does require such consultation as a matter of law. As I indicated earlier, requests that critical technologies be placed on the control lists have always been honored by the Secretary of Commerce, and it is certainly our hope and expectation that they continue to be.

Mr. JACKSON. Mr. President, I believe the yeas and nays have been ordered previously, and I ask unanimous consent that that request be withdrawn. There is no point in going through with it.

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment in the first degree.

Mr. JACKSON. On the original amendment.

The PRESIDING OFFICER. But not on the amendment in the second degree.

Does the Senator yield back his time?

Mr. JACKSON. I yield back my time on the amendment.

Mr. STEVENSON. I did not realize the yeas and nays had been ordered.

I ask unanimous consent that the yeas and nays on the second amendment be withdrawn.

The PRESIDING OFFICER. No yeas and nays were ordered on the second degree amendment.

Mr. JACKSON. On the original amendment.

Mr. STEVENSON. On the original amendment.

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

Mr. JACKSON. Now we shall vote.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. JACKSON. I yield back my time.

Mr. STEVENSON. I yield back my time.

Mr. HEINZ. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Therefore, the question now is on agreeing to the second degree amendment offered by the Senator from Illinois.

(Putting the question.)

The amendment was agreed to.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. JACKSON. I yield back my time on amendment. No. 340.

Mr. STEVENSON. I yield back my time, Mr. President.

Mr. HEINZ. I yield back my time.

The PRESIDING OFFICER. The question then is on agreeing to the amendment of the Senator from Washington, as amended.

(Putting the question.)

The amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 341

(Purpose: To clarify the meaning of critical technology)

Mr. JACKSON. Mr. President, I call up amendment No. 341 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself, Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. TOWER, Mr. MOYNIHAN, Mr. BAYH, and Mr. DOMENICI proposes amendment numbered 341.

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

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

The amendment is as follows:

On page 60, line 22, strike out "military systems" and insert in lieu thereof "capabilities".

On page 61, lines 6 through 10, strike out "for the purpose of insuring that such controls are limited, to the maximum extent possible consistent with the purposes of this Act, to such militarily critical goods and technologies and the mechanisms through which they may be effectively transferred" and insert in lieu thereof "for the purpose of insuring that such controls cover and (to the maximum extent consistent with the purposes of this Act) are limited to such critical goods and technologies and the mechanisms through which they may be effectively transferred".

Mr. JACKSON. Mr. President, amendment No. 341 would amend the bill to clarify the meaning of "critical technologies." The bill declares that it is important that the administration of export controls imposed for national security purposes give special emphasis to controlling exports of technology and goods which contribute significantly to the transfer of such technology which could make a significant contribution to the military potential of any nation which threatens U.S. national security. (Section 2(a).) The bill further provides that priority should be given to preventing the effective transfer to such nations of goods and technology— and I quote— "critical to the design, development, production or use of military systems which would make a significant contribution to the military potential of any nation or nations which could privide detrimental to the national security of the United States"—end quote. (Section 4(a)(2)(B).) These provisions constituted an endorsement of a "critical technologies" approach. However, the reference to "military systems" may be read incorrectly to imply that the particular goods and technologies must be used in "military systems," a term which is not defined nor is it used in the present law.

The amendment would substitute the word "capabilities" for the words "military systems" in order to remove this ambiguity and avoid possible misapplications of the critical technology concept.

The concept of critical technologies and goods is not limited to items which are critical to the design, production, and use of military systems, but applies to any "capabilities" which would make a significant contribution to the military potential of an adversary nation. These technologies may not have any present use in U.S. military systems because they may be obsolete by United States, but not by Soviet standards. Also, these technologies may enhance the capability of the Soviet Union to develop counter measures against U.S. weapons systems, as distinguished from manufacturing a specific military product. The technologies may be crucial to civilian communications networks, but could be adapted to military use by the Soviets.

The reference to military systems also ignores an important change that has occurred in U.S. military and commercial technology. For many years the military provided the cutting edge of the development of new technologies. Funds for military research and development were used extensively to push outwards the frontiers of commercial scientific technological innovation. However, all of that has been significantly reversed. Now new technology is developed with commercial applications in mind. Indeed the integration of sophisticated technology into military systems now lags behind the use of high technology in consumer goods and industrial products. One result of this radical change is that military research and development is no longer a reliable guide as to whether advanced technology has military implications.

It is important that the statutory framework for our modern export control policy makes it crystal clear the dual civilian/military uses of critical technologies.

The other amendment would merely conform other language in section 4(a)(2)(B) of the bill to the foregoing amendment and would make it clear that the purpose of the review of export controls is to insure that controls cover critical goods and technologies, as well as to insure that they are limited to such critical items.

Mr. President, I reserve my time.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. STEVENSON. Mr. President, once again our objectives are similar if not identical. The bill states:

In administering export controls for national security purposes, priority shall be given to preventing the effective transfer to countries to which exports are controlled for national security purposes of goods and technology critical to the design, development, production, or use of military systems which would make a significant contribution to the military potential of any nation or nations which could prove detrimental to the national security of the United States.

Now, I can see reason why some might feel that that use of the expression "military systems" was too narrow. It is possible that advanced technology, lasers, for example, might be transferred with no known present use in military systems, but with a potential for such use as rapidly changing technology evolves and new application for technology are developed.

On the other hand, the substitution of the expression "capabilities for military systems" strikes me as being entirely too broad. Most anything contributes to the capability of a foreign nation, and most any articles, even including wheat or corn, could make a significant contribution to the military potential of a nation. Food is essential, shoes are essential. I

cannot offhand think of anything that is not essential to the military potential of a foreign nation that could not be used in conjunction with, and to enhance, its capabilities.

So while I am sympathetic to the purpose of this amendment, I think it goes too far and, perhaps, farther than the Senator really intends to go.

So, Mr. President, once again I am hopeful we can agree on some language which will express what I believe to be a common concern, and without running the risk of writing into law something that goes far beyond anything we intend, and could have adverse consequences for our economy, an economy which, I add, is much in need of increased exports.

The trade deficit was about $34 billion last year. There is very little relief in sight. The dollar is weak, and the results include inflation, recession and rising unemployment. Here we are at some risk of shooting ourselves in the foot again, and with no or very little chance of enhancing our national security, because every time we impose controls that do not enhance our national security, why other countries come along and get the business.

The word "capabilities" could lead to a broadening of the critical technologies approach to cover nonmilitary critical goods and technologies, and transform that critical word "critical" into a euphemism for what contributes to the Soviet economy, in other words, any export. Then the door would be opened to a vast expansion of controls to cover nondual use items as well as those which do have military and dual uses.

So unless the Senator from Indiana or another Member wants some time, I propose to——

Mr. BAYH. Mr. President, I would like to make an observation or two, but I apologize for interrupting the Senator.

Mr. STEVENSON. I am happy to yield to the Senator.

Mr. BAYH. Mr. President, I guess what I want to do is to make an observation, and I appreciate the courtesy of my friend from Illinois, and to point out the concern I have, and to raise a couple of questions either to him or to the Senator from Washington.

I said earlier that I thought there were great advantages to be gained by opening the doors of trade, and I think really we are after the same goal, or trying to refine the language so that we can take advantage of trade opportunities and not damage the country. None of us wants to do that, even though we might disagree on the final craftsmanship of the language.

The truck factory has been used as an example. As the Senator from Illinois pointed out, that was an example where there were no restrictions placed on it, so what might happen really would not violate any restrictions. That is unfortunate, but that is the case.

However, I think that truck factory also points out one of the important elements of this whole effort to try to perfect what we are doing here. We naturally are concerned about taking a computer or a machine that is designed to make civilian trucks and not permitting it to be used in such a way so that it can be used in the manufacture of military vehicles. But I understand that there is another element of technology that was not immediately available in the case we are discussing, and that is one of the reasons why this particular plant is valuable in making trucks. It has a rather sophisticated computer system that is intricately involved in the casting of the motor blocks.

So, it seems to me, it is important for us to be absolutely certain that this kind of computer technology, which can be taken away and separated from the mission it now has in perfecting the casting of engine blocks, will not enhance Soviet capabilities in this area that I mentioned earlier of intelligence collection and in compilation and analysis, with which the Senator from Illinois is very familiar, both in his capacity as a member of the intelligence committee and in his significant role in another committee dealing with advanced space age technology. So that concern is the major concern the Senator from Indiana has.

As far as the redtape and the dragging out interminably which has been the case in the past is concerned, is the Senator from Indiana accurate—I realize I am transgressing on the Senator from Illinois' time, and if he would rather I will find some other way to handle it, but I was of the opinion that the same time there will be for resolving this problem could be imposed upon whoever might seek to make an objection or suggestion that there needs to be a broader decision or that the defense position has to be taken into consideration; all of this would have to be resolved in the same time frame, would it not?

Mr. STEVENSON. We may be talking about two subjects. There is a time frame for action on license applications, but there is none for preparation of the control list, the list which identifies the technologies that are critical and for which export license applications must be obtained.

There are no time restrains on technology lists except as to the processing of those lists, the preparation of which, as a matter of fact, is an ongoing process. The preparation of critical technology lists has been going on for about 3 years now.

Once a technology goes on the list and is proposed for export to a controlled country, then a license has to be applied for, and within that framework there is a time limitation for action on the application.

Mr. BAYH. I would think that would help alleviate the problem where it shows the existence of some military or advanced technology in question which might drag it on, to where we could speed it up to conform to the limits.

Correct me if I am not right on this, but do we not have a provision where foreign achievements in technology would be taken into account, so that the issue raised by our distinguished colleague from Pennsylvania would be clarified by the bill? In other words, if the Germans are going to do it and the Japanese are going to do it, then we are not going to permit our business people to suffer as a consequence?

Mr. STEVENSON. The role of the Department of Defenss includes the assessment of foreign availability and involves agencies over which the Senator from Indiana has some important oversight responsibilities. Intelligence comes into play at that point.

We are attempting by this legislation to expedite all these procedures; and the procedures involving the marketing of advanced technology and the problems associated therewith are troubling.

The Senator mentioned computer technology with respect to the Kama River Truck Factory. This year, the Japanese come onstream with fourth generation computer technology. There is very little American technology that is unique anymore. That is why it seems to this Senator extremely important to rely on cooperative efforts with other nations to jointly control exports of military significance, and why we have for that purpose COCOM.

Unilateral efforts to control technology simply undermine COCOM and risk giving advantage to foreign competitors. We end up diminishing our authority in the world.

The bottom line, it seems to this Senator, is that the United States must maintain its preeminence in the development of science and technology. Technology itself is increasingly difficult to control. It is also increasingly of importance to our economy, especially facing, as we do the foreign oil bill, the shrinking dollar, and the trade deficits.

I believe the way to maintain the economic strength of our country, as well as our national security, is by staying ahead of everybody. They are getting ahead of us. There is a larger investment in technology outside the United States than in the United States. In fact, there is evidence of a larger investment in commercial technology in Japan alone, now, than in this country. If we continue to concentrate simply on perfecting the technology we already have, we will end up producing the best toilet paper in the world, and Japan will end up producing the best computers for truck factories and every other application.

I think this is a useful debate. It underscores the importance of export controls, but above all, the importance of maintaining our investment in basic research and enhancing our capacity for technological innovation, the lack of which is the real threat to our national security.

Mr. SCHMITT. Mr. President, will the Senator from Illinois yield? If the Senator will yield briefly, I underscore and italicize everything I have heard the Senator from Illinois say, that the real danger is that we do not keep up and that we allow, through a variety of means, regulatory taxes and just lack of commonsense, our research and innovation capability in this country to further decay and not increase, as it must, both in the public and private sectors. It is

that reservoir of new ideas and innovation coming from those new ideas and the practical applications that result, that is running dry relative to other countries.

I suggest that controls of any kind will not solve our particular problems. I hope that the Senate does hear this debate. It is going to continue. It will come up in many different avenues, that this country has for the past decade or so allowed itself to think that it was investing in new technologies, to think it was keeping ahead of the world in basic research, when in fact it was not.

Until we fully recognize that in the budget process, in the authorization process, and in the country as a whole, and in our tax policies in particular, we are going to see increasing pressure from other nations on our export economy, and increasing adverse impacts to our economy.

So the Senator from Illinois is exactly right on that score.

Mr. MOYNIHAN. Mr. President, will the Senator from Illinois yield to me?

Mr. HEINZ. Mr. President, I yield to the Senator from New York.

Mr. MOYNIHAN. I thank my friend from Pennsylvania. Before the Senator from New Mexico leaves the floor, if that is his purpose——

Mr. SCHMITT. It is not my purpose.

Mr. MOYNIHAN. I am happy to hear that. I wonder if I might call attention to several distinctions which are compounded in the remarks he has just made.

Mr. President, we have heard some wise remarks and observations from the first natural scientist to serve in the U.S. Senate, if my understanding is correct, since Thomas Jefferson presided as Vice President. It is a happy commentary on the American political system. Among other things, it may suggest that ours is the greatest political system. In the main, it is true that scientists have had better things to do, and did them, and were left free for such purposes. But the arrival of the Senator from New Hampshire in this body means we are at least entering the 19th century, if not attaining as yet to a contemporaneous condition.

I take the occasion to make these remarks in that yesterday was, of necessity, a special day for him. He is not only the first scientist in this body in the modern period, but he is one of those blessed and historic men who have walked on the moon.

He made some observations about that in a superbly concise and intelligent—well, we would note the intelligence; it need not be concise—article in the Washington Evening Star yesterday, which I ask unanimous consent to have printed in the RECORD at this point.

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

[From the Washington Star, July 20, 1979]

SPACE IS OUR DESTINY

(By HARRISON SCHMITT)

I would like to tell you about a place I have seen: a valley on the moon known as the Valley of Taurus-Littrow. Taurus-Littrow is a name not chosen with poetry in mind; but, as with many names, the mind's poetry is created by events. Events surrounding not only three days in the lives of three men, but also the close of an unparalleled era in human history.

The Valley of Taurus-Littrow is confined by one of the most majestic panoramas within the view and experience of mankind. The roll of dark hills across the valley floor blends with bright slopes that sweep evenly upwards, tracked like snow, to the rocky tops of the massifs. The valley does not have the jagged youthful majesty of the Himalayas or the glacially symmetrical fjords of the north countries or even the now intriguing rifts of Mars. Rather, it has the subdued and ancient majesty of a valley whose origins appear as one with the sun.

The valley has watched the unfolding of thousands of millions of years of time. Now it has dimly and impermanently noted man's homage and footprints. Man's return is not the concern of the valley . . . only the concern of man.

Those words, spoken before the House of Representatives in 1973, expressed my thoughts after returning from the moon. They set part of the stage for my views on future space policy.

The main thrust of what must be this nation's space policy can be summarized in one phrase: Our destiny is space.

The expansion of human activities in space is of fundamental significance to the history of our civilization. We are lucky that it is our destiny to be the vanguard for the movement of both routine and unimaginable activities into outer space; to be the first truly spacefaring nation.

Can anyone imagine what awaits us in space? Did the Europeans really know how the "New World" would benefit them? Did Jefferson do a cost/benefit analysis of the Louisiana territory? In these instances the leaders realized that there were opportunities for social and economic benefits in the new territories, even though they could not quantify those benefits or even perceive most of them. We need an aggressive space policy to expand our opportunities for such benefits in space.

My proposed policy entails a number of goals. The first involves the development of a world information system. The second is the establishment of orbital enterprise facilities and the third is a second period of solar system exploration by man.

A world information system can be seen within the context of our private enterprise system. We must find ways to provide incentives to expand private enterprise in outer space, to smooth the way so that government space and aeronautics research can be integrated into the private sector.

My second goal is by the year 2000 to create the basic facilities necessary for orbital enterprise activities, such as education, health care, manufacturing and solar power utilization. Permanent facilities in orbit will help alleviate many problems facing this nation and provide many new opportunities. For example, the creation of new export commodities and the supply of inexhaustible energy are needs that cannot be ignored by this generation nor denied to future generations.

Many in this country, particularly young Americans, have an increasing awareness of outer-space activities and how they can be exciting and how they can benefit society. They accept the vision.

This leads me to my third goal which is, by the year 2010, for the United States to undertake further solar system exploration, which includes a base for research and test activities on the moon. A lunar base would permit us to develop and test the systems necessary to sustain a permanent mining, agricultural and research settlement. And other exploratory missions may be more economically staged from the moon.

These directions are part of an aggressive space policy which reflects our destiny in space. What is needed is a space policy of support for such activities.

The greatest of all accomplishments that we can achieve in our lifetime is to assure our children of their destiny in space.

Mr. MOYNIHAN. I rise simply to join with what I am sure would be all of my colleagues in congratulating our astronaut colleague on that wild and incomparable adventure in which he participated.

Mr. SCHMITT. If the Senator from Pennsylvania will yield further, I thank my distinguished colleague from New York. It is said that the only thing New Mexico and New York have in common is the word "New." I would hope that they have a great deal more in common. I think over the last 2½ years we are finding, as a consequence of the interaction of the delegations from those two States, that there is a great deal we have in common and a great deal of interaction between our two States. I would make a slight correction to the remarks of the Senator, or maybe two. One is they were overgenerous, but appreciated. The other is that my roots are in New Hampshire, but my life is in New Mexico.

I would add, apropos of this subject, that I find it extremely unfortunate that scientists, technologists, engineers, too many business people, too many people from all professions, have felt that the business of making law, the business of politics, the people's business, was something to be left to someone else, that they had no interaction, no concern about what was done within the halls of Congress, within the halls of the State houses, of the State legislatures.

I hope that is changing because, if we are going to meet the challenges of our third century of national existence, we are going to need as broad a breadth of understanding of human existence as did our Founding Fathers, as did the writers of the Declaration of Independence, the framers of the Constitution, the Congress in which Jefferson served.

If we do not develop that breadth and understanding, that aggregation of all of the pertinent aspects of human knowledge, and knowledge of the human condition, then we run a great risk of failure in framing the pathway and framing the roadmaps for our future in our third century. It is probably the greatest political challenge over all that faces this country, to develop within this body and other legislative bodies, and within the administration as a whole, the capability to view these problems in all their complexities but view them with understanding and not just an awareness of their complexities.

We must view them with an understanding of what those complexities are and how we interweave the solutions to affect such complexities.

I am glad that my friend from New York pointed this out in the way he did. I appreciated his remarks and I am sure the country will appreciate his remarks.

Mr. HEINZ. Mr. President, first of all, I commend the Senator from New Mexico and the Senator from New York for adding to the quality of this already highly elevated debate. I also rise with Senator STEVENSON to oppose this amendment by my good friend from Washington, Senator JACKSON.

I believe we both understand his goals and his goals, indeed as always, are quite sensible. His goals, I think, recognize the fact that there are certain uses of militarily related equipment that may not necessarily be subsumed in the words military systems.

For example, certain kinds of electronic countermeasures equipment may in fact not fall within the term "military systems." But there is a real danger with the Senator's amendment as drawn because I fear that the word "capabilities" is a bit too broad. There is practically no technology I can think of that does not have some indirect bearing on military capability. It would not be too farfetched to characterize the word "capabilities" as the buttons, belts, and boots approach. Every military force is suitably attired in a way that requires buttons, belts, and boots, and without those clothes I do not know of any Army which would be able to fulfill its military capabilities.

I know the Senator from Washington did not intend to put restraints on buttons, belts, and boots, and I would hope, therefore, that we would be able to find a way to tighten up this language so that we address the real problem the Senator from Washington has identified for us.

I have one final word, Mr. President. Senator STEVENSON and Senator SCHMITT have stated that the real danger to the United States is that we are not keeping up the kind of pace we have relied upon in the past for the development of new technology. Indeed, last year some 63 percent of the patents filed in this country were filed by and granted to foreign nationals, not to Americans. The Department of Defense, therefore, has a tremendous stake in the health of U.S. industry.

Only a U.S. industry that has appropriate access to foreign markets as well as domestic markets will be healthy. Therefore, it seems to me that the Department of Defense, having the great stake that it does in technology, must have an equally great interest in having our technological base continue to be premised upon a strong, healthy, financially sound American enterprise system and the companies that comprise it so that they can make the investments in research and development leading to new technology, which is the base, as the Senator from New Mexico eloquently pointed out, of the real strength of this country.

Mr. TSONGAS. Will the Senator yield?

Mr. HEINZ. I am happy to yield.

Mr. TSONGAS. I would like to comment concerning the remarks of the Senator from New Mexico about the reason we do not have many scientists in Government. If you look at scientists, with many of them located in Massachusetts, and then talk to them about Government redtape and about the problems about expanding the export market, many of them face frustration. Here we are legislating in very broad terms. When we get down to the various technologies involved, they are much more complicated, with great distinctions. This time of developing language, although making sense to us, is met in the technical community with great dismay. I would hope as the day goes on that we consider that there is indeed a community out there involved with high technology, which wants to expand foreign trade and wants to try to compete with the renewed vigor displayed by the Japanese and others. It seems to me that given our balance-of-payments problem we would be encouraging that and not discouraging it. I think today will be a critical day in the long-term outlook for this country. I thank the Senator from Pennsylvania for yielding.

Mr. SCHMITT. Will the Senator yield me some time?

Mr. HEINZ. I am happy to yield time to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, the only additional remarks I have are that, in geology, which is my profession, we often say that the past is the key to the present. That is a fairly good remark so long as you do not go too far back in the past, where you find that things may have been much different on our planet than they are today. I think it is clear that, in the area of political technology, if you will, and technology in general, the past is no longer the key to the present or the future; because, as Toffler pointed out in his book, "Future Shock," and as many others have pointed out in other ways, the rate of change in our society, particularly the rate of our technological society, is accelerated. That is basically a new condition for human beings on this planet.

Another example, since the distinguished Senator from New York has mentioned Thomas Jefferson. I say what I think can clearly be demonstrated, that when he was in this body and was looking into the future, he would be able to predict the kind of life that his children and the children around him would live 50 years ahead with some considerable degree of accuracy. You cannot do that any longer. We cannot even predict what our situation is going to be personally 10 years ahead, much less what kind of life our children will lead.

That may be the simplest way to illustrate what I mean and what we mean when we say the rate of change of society and of technology in particular, is increasing. It is increasing at a rate that is going to get larger and larger. So, every time we try to protect ourselves, every time we forget that we are a maritime nation in the historic sense, every time we draw barriers between ourselves and the rest of the world or between ourselves and each other in technological ways and economical ways, all we are doing is acting to our own disservice. We are restricting the rate at which we can grow, whereas the rest of the world is growing at this ever-increasing rate.

I am afraid that aspects of the proposals of the Senator from Washington do exactly that. They fly in the face of something we cannot control. We cannot control this changing rate of change of our society, this ever-increasing availability of new technologies, of new ideas, not only to our own people, but to all of the people of the world.

UP AMENDMENT NO. 424

(Purpose: To clarify the scope of critical goods and technology)

Mr. STEVENSON. Mr. President, I send an amendment to the amendment to the desk and ask unanimous consent that it be considered and that Senator HEINZ be added as a cosponsor.

The PRESIDING OFFICER. (Mr. CHURCH). The Chair advises the Senator that until the time on this amendment has either expired or been yielded back on both sides, the amendment of the Senator is not in order.

Mr. JACKSON. Mr. President, I yield back my time.

Mr. STEVENSON. Mr. President, I ask unanimous consent that it be in order.

The PRESIDING OFFICER. Very well. Is there objection?

There being no objection, it is so ordered.

Mr. STEVENSON. I also asked unanimous consent that Mr. HEINZ be added as a cosponsor.

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

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) for himself and Mr. HEINZ, proposes an unprinted amendment numbered 424 to amendment 341.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

Strike lines 1 and 2, and insert in lieu thereof the following:

"On page 60, line 22, strike the words 'military systems' and insert in lieu thereof the following: 'existing or potential military systems including weapons, command, control, communications, intelligence systems and other military capabilities, such as countermeasures.'."

Mr. STEVENSON. Mr. President, I have discussed this amendment with the distinguished Senator from Washington and I am hopeful that it clarifies the intent of this amendment in a way that makes it acceptable to myself and to the Senator from Pennsylvania. As he and I have already indicated, the use of the expression, "capabilities," may have consequences not fully intended.

This amendment would strike the phrase, "military systems," and instead of inserting "capabilities," would insert the following: "existing or potential military systems, including weapons, command, control communications, intelligence systems, and other military capabilities such as countermeasures."

I believe and hope, Mr. President, that with this change, the amended amendment will carry out the Senator's pur-

poses, and they are purposes that I share, without going beyond them at some risk of unnecessarily interfering with exports from the United States. I am hopeful, therefore, that he will accept it.

Mr. JACKSON. Mr. President, I am in accord with the proposal of the two Senators. I think it does reach the result that both sides seek. In all of these situations, we are simply trying to find a solution that will address properly and effectively the national security area and, at the same time, not create an impasse in trade and commerce.

I commend the Senator from Illinois and the Senator from Pennsylvania for having offered this amendment to the amendment.

Mr. STEVENSON. Mr. President, I thank the Senator. I believe that neither of us intends, by the use of the word "communications," to include ordinary commercial communications.

Mr. JACKSON. Ordinary civilian or commercial communication; only if it has military, specific military application.

Mr. STEVENSON. I thank the Senator for that clarification.

Mr. HEINZ. Mr. President, I, too, thank the Senator from Washington for his cooperation in this. I am prepared to yield back our time.

Mr. JACKSON. I yield my time.

The PRESIDING OFFICER. All time is yielded back on the amendment.

The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. JACKSON. I yield back my time on the amendment itself.

Mr. HEINZ. Mr. President, I yield back the minority's time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 344

(Purpose: To modify foreign availability criteria)

AMENDMENT NO. 345

(Purpose: To provide for the elimination of foreign availability through negotiations and trade of commercial sanctions to secure cooperation)

Mr. MOYNIHAN. Mr. President, I call up amendment No. 344 and amendment No. 345 and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection?

Without objection, the two amendments will be considered en bloc.

The clerk will state the amendments.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) for himself, Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. TOWER, and Mr. MOYNIHAN, proposes an amendment numbered 344.

On page 63, line 6, after the period insert "With respect to controls imposed for national security purposes, a finding of foreign availability which is the basis of a decision to grant a license for, or to remove a control on the export of a good or technology, shall be made in writing and be supported by reliable evidence, such as a scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability, no weight may be accorded representations as to foreign availability by an applicant for an export license, unless sworn to in writing by the chief executive officer of the applicant. Such sworn representations without adequate independent corroboration shall not constitute reliable evidence.".

The Senator from Washington (Mr. JACKSON), for himself, Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. TOWER, and Mr. MOYNIHAN, proposes an amendment numbered 345.

On page 63, line 11, after the period insert the following: "A technology or good which is proposed for, or subject to, export control for national security purposes and which is not possessed in comparable quality or quantity by a nation or combination of nations threatening the national security of the United States shall not be deemed to be available to such nation or nations from foreign sources until the Secretary of State certifies in writing that negotiations with the appropriate foreign governments for the purpose of eliminating foreign availability have not been successful. In order to secure cooperation of foreign governments in eliminating availability of critical goods and technologies, the President is authorized, except as otherwise prohibited by law, to impose trade or other commercial sanctions, including but not limited to prohibiting exports of all or certain technology or goods to such a nation, or prohibiting imports of all or certain technology or goods from such a nation. Within one year after the date of enactment of this Act, the President shall submit a report to Congress on the specific limitations other provisions of law impose on the exercise of his authority under this subparagraph, together with his recommendations.".

Mr. MOYNIHAN. Mr. President, I shall take the time of the Chamber very briefly to make the general observation about the concerns we are dealing with this morning. It seems to me the public ought to know something of the larger understandings behind the specific actions attempting to control and limit the amount of technology transferred to the totalitarian states of this age, which, for practical purposes, are the Marxist totalitarian states.

Mr. President, because we use, sometimes, such different words and there is almost a proposition that there are different cultures involved in the culture of science and technology on the one hand and of the liberal, humane arts on the other, it is easy to miss the essential continuum of all these activities of the human mind and of society. Particularly, it is easy to miss that freedom of inquiry, freedom of association, freedom of dissent is as essential to science as ever it is to any of the liberal professions—more so.

Indeed, if we were to look for the basis of the ideas of freedom and independence and the autonomy of individual opinion in the West today, we would find their origins as much in scientific inquiry as we would ever do in theological or legal thought.

When science first confronted the traditional doctrines with contrary evidence, that it became necessary to seek the question of society, is there a place for dissent, is there a place for orthodox opinion, having accepted that, answered that question in the affirmative, we have entered into the most extraordinary creative period of technological advance, such as the Senator from New Mexico has described, somewhat Faustian, almost, in the degree to which it challenges us to deal with the consequences of our wishes.

But the fact that free inquiry is at the base of this phenomenon is nowhere more dramatically shown than in the totalitarian societies where the absence of freedom of inquiry and of dissent in the basic political realms has inevitably contaminated the same processes in the scientific realms. We see them coming directly, one from the other.

Perhaps it is no accident, as the Marxists would say, that there have been scientists who have been the leading dissenters of the Soviet Union at this point, that Nobel prize winner Sakharov is the symbol of dissent.

And what we say when we ask to limit export of technology to these nations is that we wish to limit the degree to which those regimes do not suffer because of their very obscenity. I put it in this way, these regimes know that repressing political freedoms involves them with a repression of scientific and technological innovation, as well, and they hope that if they can import the science, which is the result of our free inquiring, they need not free up their own societies that might otherwise produce this freedom.

Remember that we have a bad habit of thinking of the Soviets in terms of the primitive standards of their political life. But the Soviet Union of the 19th century was among the most creative scientific societies in the world. I see the Senator from New Mexico is agreeing. In mathematics, physics, chemistry, and certain basic forms of metallurgy, they were among the leading nations on Earth. It is totalitarianism that destroyed their science and it is the totalitarians who wish to use our science in order to preserve their totalitarianism.

Mr. SCHMITT. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the Senator.

Mr. SCHMITT. There are so many examples that prove the point the Senator from New York is making that I will not pose the whole litany at this point.

However, I just happen to recall, because we are 1 day after the 10th anniversary of Apollo landings, looking at the panorama of craters as we circled the Moon, and others have also circled the Moon, and looking at the maps and seeing the names of those craters. So many of them are commemorating the advances of human knowledge that occurred within the minds of Russian citizens, or citizens of that vast land, whatever name might have been applied to the politics.

Mr. MOYNIHAN. The astronomers.

Mr. SCHMITT. The names go on and on.

Of course, many other nationalities are

represented. Copernicus, Galileo, it goes on through.

I think about this, as the Senator obviously has, the totalitarian regime has generally been completely unsuccessful in tying up the imagination and the fruits that come from that imagination of the human mind.

But they have been extraordinarily successful in preventing the translation of the fruits of the human mind into practical applications for the benefit of people, or the benefit of mankind, or whatever one may want to define.

That is exactly the point I believe the Senator is trying to make.

Mr. MOYNIHAN. It is, indeed.

Mr. SCHMITT. The intellectual capacity of the Russian people, all the people under Soviet domination, is no different today than it ever was.

It is an intellectual capacity based, as everywhere else in this world, on freedom of inquiry, the basic scientific principles that relate to freedom of inquiry. That is what science is all about.

If it is done right, it is fruitful. If it is not done right, then it is so much garbage.

With Copernicus and others before and after him, we saw a great revolution in this freedom of inquiry, an inquiry that went against the established policies and dogma of their times.

Also, if we look back in history, those persons persecuted throughout recorded history, more often than not because they were practicing science in some form or another, have been practicing the freedom of inquiry in its broadest definition, relative to the human mind.

I would agree completely with the Senator that we have to be extraordinarily careful that we do not allow our freedom to be exported, and to substitute, and, therefore, shore up this deficiency——

Mr. MOYNIHAN. Precisely.

Mr. SCHMITT (continuing). That exists within totalitarian regimes.

On the other hand, we have to be realistic about what we do and make sure, in preventing that transfer and that shoring up, that we do not also prevent ourselves from benefiting from the fruits of our own freedom.

Mr. MOYNIHAN. It seems to me the Senator, our only scientific source in this body, has made the case explicitly and incomparably well.

I simply note that American science, as well as the science of some other countries, has incomparably benefited from the mass exodus of scientists from Nazi Germany. Indeed, I put the Senator's point, who resists totalitarian societies, who flees them? The first persons almost, after the very thin veneer of political opposition is overcome, the first culture that has to resist is science, and it does.

Mr. SCHMITT. The Senator is entirely correct. I guess he has in mind Albert Einstein in modern times. If we go back to our own times we can see the scientific imprint of inquiry on the creation of our basic foundations of political life, Jefferson and Franklin being two that come to mind immediately, having that basic discipline and freedom of inquiry in their minds, and they were some of the leaders—obviously, the leader—not only of the Revolution, but the beautiful documents and foundations that came from that Revolution.

Mr. MOYNIHAN. In a happy age, when the political and natural sciences were thought to be part of a single continuum.

Mr. SCHMITT. If the Senator will yield again, the reaction to that, that is, that they still are. We tend to forget that.

Mr. MOYNIHAN. I will not disagree.

Mr. President, the purpose of these two amendments is to advance the general understandings that the Senator from New Mexico and I have just spoken about.

Amendment No. 344 has the simple declaratory purpose of stating that when the Department of Commerce produces a finding of foreign availability—a matter now under discussion—that it document that finding, not a large proposition, and one would have thought one not necessary, but, alas, it turns out to be.

The operating sentences state:

> In assessing foreign availability, no weight may be accorded representations as to foreign availability by an applicant for an export license, unless sworn to in writing by the chief executive officer of the applicant. Such sworn representations without adequate independent corroboration shall not constitute reliable evidence.

One must think that that would be a normal procedural standard. It has not been followed. This amendment would require that it be.

Amendment No. 345, in fact, would constitute an extension of our efforts and a deepening of our commitment in this field. It simply states, with respect to this whole question of availability elsewhere, that in order to secure cooperation of foreign governments in eliminating the availability of critical goods and technologies, the President is authorized, except as otherwise provided by law, to impose trade or other commercial sanctions, including but not limited to prohibiting exports of all or certain technology or goods to such a nation, or prohibiting imports of all or certain technology or goods from such a nation.

Within a year after the enactment of this legislation, if it is enacted, the President will report to Congress on the specific limitations other provisions of law impose on the exercise of his authority under this paragraph, together with his recommendations.

So it is a limited measure, but an important one. What it says is that we mean it when we ask other nations not to join in a competitive export of technology to the totalitarian states.

What it says, in effect, is that the Secretary of State, who will make these representations, has some sanctions, has some potential influence, can speak from a government whose Congress has made its intention clear that it takes this seriously, that these are not just gestures, that we are prepared to act in ways which are not agreeable to us but which we feel to be necessary.

Mr. President, the most difficult of all political undertakings is to maintain an alliance in concert. We perhaps underestimate the extraordinary duration of the NATO alliance. In the history of the world, no such political alinement has endured into now its second generation. Yet, there are constant efforts to weaken it that are dynamics internal to any such arrangement.

The Senator from New Mexico has mentioned one of the dynamics at the present time, which is the very great expansion of technological rates of change in countries with which the United States is allied and which are fellow members of COCOM.

At a time when technological initiatives were overwhelmingly to be located in the United States and in Britain, it was easier to maintain these standards. Today, it is harder. The societies that are producing the technology pay for it.

The Senator from New Mexico and the Senator from Pennsylvania observed the higher rates of investment in technology in these other nations. Those nations necessarily will hope to see a return on that investment.

These markets present such opportunities for return that if the United States is to dissuade them, it has to have some sanctions—economic sanctions, obviously—to provide the economic incentives that are involved.

Accordingly, Mr. President, we submit these modest but we feel not unimportant amendments and wonder what is to be the reaction to them by the Senator from Illinois and the Senator from Pennsylvania.

Mr. PERCY. Mr. President, will the distinguished Senator yield a couple of minutes?

Mr. STEVENSON. I am happy to yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I commend Senator STEVENSON and Senator HEINZ. As they know, the Senator from Illinois served on the Banking Committee at the time the 1969 so-called Export Control Act was up.

I have had many years of industrial experience and have seen, time after time, a policy that was shortsighted, that was not realistic, that was not adapted to the real world in which we live. We worked mightily at that time to change this from a control act to an administration act, whereby we had an evenhanded approach to it.

In the experience I had in industry, we were faced with a very ludicrous situation. Bell & Howell Co. manufactured, in this country, film printers and perforators, a quarter of a million dollars apiece, ordered by the Soviet Union for their film industry. We were restricted from shipping it from the United States, using American labor. But there was no problem in the Soviet Union buying it from J. Arthur Rank Organization, the licensee of Bell & Howell, who made identical equipment. This was a piece of machinery that cost a quarter of a million dollars and was used in the printing and perforation of motion picture film. The only change in the thousands of parts was a nameplate. It was

just a nameplate. It was "Bell and Howell-Rank" instead of "Bell and Howell." But it was made in England instead of in the United States.

Back in the 1960's, the restrictive laws of the United States were such that, time after time, we were dealing ourselves out of business.

In visiting the Soviet Union with Hubert Humphrey, on our last trip there, we met with the business community and found many times that they were absolutely frustrated. Here was a huge growing market.

So, instead of trying to make it as tough as possible to earn extra dollars, we tried to find an even-handed way to do it and to protect our national security—this is paramount—but not to go in the direction of making it more and more onerous and difficult for American companies to compete against Germany, the United Kingdom, Italy, and many other countries that were doing business successfully.

Here I hope that some compromise can be worked out on the pending amendment. I cannot imagine any of our competitors abroad—Japan, Italy, Germany, Great Britain—adopting an amendment which would require the chief executive officer, who is not the most competent person, to sit there and sign the certificate, certifying something that would take research on his part. He is not necessarily the best person to do it. But it adds to him as a paperwork signer rather than a policy director dealing with the immediately urgent, rather than a chief executive who should be dealing with long-range plans and programs. It assigns to him a clerical function that he should not be designated to do.

I think, also, that some compromise should be worked out so that if the statement of a company is the only evidence you have, I would say it is not sufficient evidence. But it should be looked at as a part of the evidence.

I hope something can be worked out on this point between the manager of the bill and the distinguished Senator from New York, who represents a very large business community, who would be interested in working out something special.

Mr. MOYNIHAN. Mr. President, I believe that the senior Senator from Illinois has made some wise observations based upon real experience.

I understand that the distinguished manager of this legislation has some thoughts as to how, in fact, his specific concerns might be accommodated.

UP AMENDMENT NO. 425

(Purpose: To prevent undue reliance on self-serving representations as to foreign availability)

Mr. STEVENSON. Mr. President, I send an amendment to the amendment to the desk. I do so on behalf of myself and the Senator from Pennsylvania.

Mr. PERCY. Mr. President, I ask unanimous consent that I be added as a cosponsor to the amendment. Having looked at the wording of the amendment, I agree.

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

Mr. STEVENSON. Mr. President, I ask unanimous consent that it be in order to consider the amendment.

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

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) for himself, Mr. HEINZ, and Mr. PERCY proposes an unprinted amendment numbered 425 as an amendment to amendment No. 344.

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

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

The amendment is as follows:

Strike the second sentence and substitute in lieu the following:

"In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability."

Mr. STEVENSON. Mr. President, as my good friend from Illinois has pointed out, amendment No. 344 offered by the Senator from New York requires the executive officers of exporters when applying for export licenses in effect to certify as to point of availability under oath.

This amendment, which I offer to that amendment, simply strikes that language, the last sentence of the amendment that starts on page 2 of the amendment, and substitutes the following language:

In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability.

In other words, the statements of applicants can only be taken into consideration on foreign availability if they are corroborated by other evidence.

I believe this is just what the other Senator, my distinguished colleague from Illinois, was suggesting, and I think it is a reasonable means of accomplishing the objective of the Senator from New York and hope, therefore, that it is acceptable on both sides.

Mr. MOYNIHAN. Mr. President, if I may respond, this is indeed a reasonable accommodation to the real concern addressed by the senior Senator from Illinois, and on behalf of the sponsors of the amendment, I am happy to accept the substitution of my friend from Illinois and the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I think we have a reasonable arrangement that will seek to accommodate the concerns and objectives here of the Senator from New York and the Senator from Washington. I am very strongly in support of Senator STEVENSON's amendment, and I am grateful to the Senator from New York for accepting it.

Mr. MOYNIHAN. Those are very generous remarks.

Mr. STEVENSON. I am prepared to yield back my time.

Mr. HEINZ. I am prepared to wield back my time.

Mr. TSONGAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TSONGAS. This referred to the first of the amendments to be considered en bloc.

Mr. MOYNIHAN. That is right. These amendments are being considered en bloc although if the Senator wishes just to dispose of this one and move to amendment No. 345, that would be agreeable to the Senator from New York.

Mr. STEVENSON. Mr. President, the pending amendment is an amendment to amendment No. 344. After the Senate acts on this amendment, it would be my intention to offer another amendment. That one would be to amendment No. 345, which I hope will become a basis for it in that event.

Mr. MOYNIHAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOYNIHAN. May the Senator from New York ask to vitiate his request that amendments 344 and 345 be considered en bloc and substitute a request that we have before us simply amendment No. 344?

The PRESIDING OFFICER. The Senator may do so.

Mr. MOYNIHAN. In that case, I so request, Mr. President.

The PRESIDING OFFICER. Very well.

If there be no objection, the amendments will now be considered separately.

Mr. MOYNIHAN. Mr. President, I yield back the remainder of my time on amendment No. 344.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois, unprinted amendment No. 425.

The amendment was agreed to.

AMENDMENT NO. 344, AS AMENDED

The PRESIDING OFFICER. Is all time yielded back on amendment No. 344?

Mr. HEINZ. Yes, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 344, as amended.

The amendment, as amended, was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 345

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I understand that the distinguished manager of the legislation and his not-less-distinguished colleague from Pennsylvania have a proposal that would modify amendment No. 345 without in any way losing sight of these objectives nor of the desire that the executive be given greater powers with which to pursue those objectives.

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENSON. Does the Senator from Massachusetts request time?

Mr. TSONGAS. Yes.

Mr. STEVENSON. I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. TSONGAS. Mr. President, I wish to speak to the practical implications of amendment No. 426 which is now before the body, and let me try to take out the relevant parts of the amendment. So the suggestion that we are indeed in the real world will take place.

The amendment speaks to, if you will, suppress the exported technology not by the United States but by another country, to nations that are not friendly to the United States.

Indeed, if that attempt is unsuccessful to the negotiations process, the President, "in order to secure the cooperation of foreign governments" is authorized to impose trade or other commercial sanctions of all good and imports and exports from and to such a nation. What does that mean? The only countries we are really concerned with that export technology are countries like France.

So what we are saying here is that: If we do not like what France is doing vis-a-vis the Soviets, we will ask them to cease and desist. In order to improve the changes of negotiations we may impose economic sanctions against France, including prohibiting all exports of American goods to France and all French imports into the United States.

Does anyone believe that prohibiting France from importing American blue jeans and exporting French wine is going to make the French any more amenable to negotiations with the United States?

Anyone who has had experience in dealing with foreign governments—and certainly the distinguished Senator from New York is probably preeminent in this body in terms of that qualifications—knows that the one way to insure France would not cooperate would be to impose these kinds of sanctions.

We are not talking about less-developed countries. We are not talking about an Iran, for example. We are talking about very sophisticated countries which view the United States as an equal. There is no way you can possibly assume that in negotiations where hanging over them is the specter of a U.S. trade embargo that that is going to be anything but counterproductive.

I think this amendment has serious long-term implications that could only hurt the very ends that the proponents of the legislation are seeking, and I would ask that the amendment be defeated.

I yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, I would like to thank the distinguished Senator from Massachusetts for his observations, which are serious and deserve to be considered.

I would say two things: First, in the actual dynamics of government negotiations in areas such as this no government would ever, the United States would ever, in fact, be threatening some large proposition such as the embargoing of the French wine industry. You do not negotiate that way. But the U.S. Government would be saying to the French Government, "Look, we are under pressures from the Congress, which you understand. These are, in effect, our instructions."

The French Government, in dealing with its own private sector, would be in a position—why use France? But why not—to say that while the government itself did not necessarily agree with the United States, the United States was in a situation where the government was under pressure and legitimate legislative actions in this country such that, in fact, the weight of the American representation is greater than otherwise it would be. This is a judgment you always have to make.

But, Mr. President, The United States can just go on providing the military defense of the industrial democracies of the world so long whilst they undermine our efforts, when they do, by enhancing the defense, the military aggressive capacity, of the totalitarians we are defending them against.

We have to give our Secretary of State at least an opportunity to make the case which this Congress expects of him.

I will say to the Senator from Massachusetts that I understand we have alternative language which will meet some of his concerns. I think they do—I will not speak for the Senator from Illinois—but I wonder if the Senator from Illinois would address this matter.

UP AMENDMENT NO. 426

(Purpose: To require negotiations to prevent foreign availability from undermining U.S. export controls)

Mr. STEVENSON. Mr. President, I send an amendment to amendment 345 to the desk on behalf of myself and Mr. HEINZ and ask unanimous consent that it be in order.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be in order. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 426.

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

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

The amendment is as follows:

In lieu of the language to be inserted, insert the following: "Whenever the President has reason to believe goods or technology subject to export control for national security purposes by the United States may become available to controlled countries from other countries, the President shall promptly initiate negotiations with the governments of such countries to prevent such foreign availability. In any instance in which such negotiations fail to prevent or secure the removal of such foreign availability and the President requires additional authority to take effective action toward that end, the President shall report fully to the Congress and where appropriate recommend measures to secure the removal of such foreign availability."

Mr. STEVENSON. Mr. President, as the distinguished Senator from Massachusetts indicated, amendment 345 appeared to threaten sanctions against foreign competitors of the United States who did not impose controls on exports to controlled countries which the United States felt should be controlled.

The amendment, it seemed to me, threatened delays in action on license applications to the advantage of foreign competitors, and by threatening sanctions, it implied we might again hurt ourselves in order to advantage our foreign competitors.

I think this amendment accomplishes the purpose of the distinguished Senator from New York without any danger of adverse consequences. It simply says:

Whenever the President has reason to believe goods or technology subject to export control for national security purposes by the United States may become available to controlled countries from other countries, the President shall promptly initiate negotiation with the governments of such countries to prevent such foreign availability. In any instance in which such negotiations fail to prevent or secure the removal of such foreign availability and the President requires additional authority to take effective action toward that end, the President shall report fully to the Congress and where appropriate recommend measures to secure the removal of such availability.

Mr. President, of course such measures could include sanctions. This is not intended to eliminate that possibility, but it does make it a little less explicit. It does, as does the distinguished Senator from New York, recognize that in such cases where technology is available from foreign sources to controlled countries which the United States feels should be controlled, the President will initiate negotiations, and I agree completely he certainly should.

So I think it retains the purpose and eliminates one troublesome feature, and I am hopeful, therefore, that it will meet with the approval of the distinguished Senator from New York.

Mr. MOYNIHAN. Mr. President, will the Senator from Illinois yield for a question?

Mr. STEVENSON. Of course.

Mr. MOYNIHAN. On the examples of appropriate measures he mentioned sanctions, if the President thinks of it.

There is a whole armamentarium here that might be useful to note, to see if the Senator from Illinois agrees, that the President could speak of the procurement policies of the U.S. Government, of the position of the U.S. Government in trade and commercial negotiations, and similar measures in addition to more conventional approaches.

Mr. STEVENSON. Yes, of course he could. His arsenal is large, and my own feeling is that procurement policies of the United States might be more appropriate

than some of the other sanctions contemplated.

To suggest that another nation will be deprived of the right to buy goods from us——

Mr. MOYNIHAN. To sell.

Mr. STEVENSON (continuing). Implies to me that we may harm ourselves more in this highly competitive world than another country. But procurement is the other side of the situation.

But procurement is the other side.

Mr. MOYNIHAN. Yes. The Senator will agree with me that it entirely is up to the U.S. Government to give to other countries a percentage of the market; if they wish to concentrate on the Bulgarian market, as it were, well, that would leave the U.S. market to others, and that is a legitimate point we might make.

Mr. STEVENSON. I agree completely with the Senator. It is certainly the intention of the authors of the amendment to his amendment to encourage the President to use whatever assertions of authority are available to him, including those that have been mentioned by the Senator.

Mr. HEINZ. Mr. President, first let me concur with the remarks of the Senator from Illinois and in the understanding that he and the Senator from New York have developed in their colloquy.

Let me also commend the Senator from Massachusetts (Mr. TSONGAS) for having, I think, put his finger on the particular problem with the amendment as originally drafted. I share his concerns in that regard.

Thirdly, I wish to commend and thank the Senator from New York for his willingness to understand the concerns expressed and to appropriately modify the amendment; and I hope, Mr. President, that we do now have an agreement.

Mr. MOYNIHAN. Mr. President, the Senator from Pennsylvania is characteristically gracious on behalf of the sponsorship of this amendment. We do accept the substitute, which I believe is jointly proposed by the Senator from Illinois and the Senator from Pennsylvania; and I, too, would like to thank our colleague from Massachusetts for his timely and fructifying intervention.

I yield back my time.

Mr. TSONGAS. Mr. President, I would like to indicate my concurrence in the compromise language, which gives the President a weapon which, while in the nonmegaton range, may be more useful.

The PRESIDING OFFICER. Is the remaining time yielded back?

Mr. MOYNIHAN. I yield back the remainder of my time.

Mr. STEVENSON. I yield back the remainder of my time. The amendment is offered as a substitute.

The PRESIDING OFFICER. Yes. The question is on agreeing to the substitute amendment.

The amendment was agreed to.

Mr. JACKSON. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from New York, as amended. Do the Senators yield back their time?

Mr. MOYNIHAN. I yield back the remainder of my time.

Mr. HEINZ. I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. JACKSON. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 353

(Purpose: To limit exports of animal hides and skins until the President determines that there are adequate domestic supplies)

Mr. MUSKIE. Mr. President, I call up amendment No. 353, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE), for himself, Mr. BAKER, Mr. DURKIN, Mr. ROTH, Mr. COHEN, Mr. TSONGAS, Mr. HUMPHREY, Mr. FORD, Mr. HEINZ, Mr. HELMS, Mr. LEAHY, Mr. NELSON, and Mr. KENNEDY, proposes an amendment numbered 353.

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

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

The amendment is as follows:

On page 78, line 11, after the period insert the following: "Notwithstanding any other provision of this paragraph, in order to carry out the policies set forth in section 3(2)(C) and 3(7) of this Act with respect to animal hides or skins, until the President, after receiving the advice of the Secretaries of Commerce and Agriculture, determines that (A) hide producing countries which have enacted skin and hide export restrictions over the past ten years have resumed reasonable levels of skin and hide exports, or (B) the supply of animal hides or skins, after deducting export demand, is sufficient to meet the requirements of the domestic economy; animal hide and skin exports shall be limited to a total volume, per year, equivalent to the most recent period which the President determines is representative of exports of such products. Before providing their advice to the President under the foregoing sentence, the Secretaries of Commerce and Agriculture shall, after reasonable notice, hold public hearings and shall afford interested parties an opportunity to be present, to present evidence, and to be heard at such hearings.".

Mr. MUSKIE. Mr. President, I ask unanimous consent that Anita Jensen and Jim Case be granted privileges of the floor during Senate consideration of S. 737, Export Administration Act, including all votes.

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

Mr. MUSKIE. I ask unanimous consent, if their names are not already listed, that the names of Senators MOYNIHAN, ROBERT C. BYRD, RANDOLPH, and SASSER be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, unless they are already listed, the named Senators will be added as cosponsors of the amendment.

Mr. MUSKIE. Mr. President, the threat facing the American leather industry is the worst in its history.

The situation is critical.

The facts are simple: A reduction in cattle slaughter has reduced the supply of cattle hides on the world market. The American supply has come under increased pressure from the major importing countries. Prices have skyrocketed.

The tanning and leather industries depend almost exclusively on cattle hides for their existence. These industries need the raw material. Tanneries cannot turn to alternative raw materials—there are no alternatives. And shoe factories cannot retool to make some other product. No adequate substitute for leather exists. Canvas shoes cannot replace leather shoes. And plastic saddles cannot replace leather saddles.

The shortage is worldwide. It is part of the cyclical downturn in the cattle industry. But this cyclical shortage has been artificially aggravated by embargoes on hide exports by major producing countries. So America, which produces 15 percent of the total world skin and hide supply, now supplies 75 percent of the cattlehides being traded worldwide.

The U.S. supply dropped 6.8 percent last year. Twenty-four and one-half million hides were exported, from a total supply of 39.5 million. This year's domestic supply will be 34.2 million hides, but exports are not expected to decline.

If we sell 24 million hides from a supply of 34 million, we will be left with 10 million for domestic needs.

Yet the domestic industry needs a minimum of 18 million hides to operate at current levels. Industry withdrew 2.4 million hides from inventory last year. This year, there is no inventory left to fall back on.

I do not know of any industry that could survive such a drastic curtailment of its basic raw materials without virtual collapse.

Four hundred thousand workers depend directly on the tanning and leather industries. The implications for these 400,000 jobs—and for the $8 billion in retail sales of leather products—are clear.

The inflationary impact of foreign demand is evident in the doubling of hide prices since last year. Footwear prices have already risen 17 percent, and are being forced higher, since the price inflation in the basic commodity has not yet been fully reflected in the prices of finished goods. When the inflated price of those hides has worked its way through the production pipeline, $30 leather shoes may well be a fond memory—just as U.S.-made baseball gloves are today.

If this situation arose from a supply shortage aggravated by increased demand, operating in a free international market, the results would be serious for the domestic tanning and leather industries. The outlook for their workers would be bleak. And the inflationary ef-

fects would be just as severe. But the case for Government intervention in the market would be less strong.

The fact is that this situation does not result from a free international market. The shortfall in hide production has been aggravated and sustained by Government actions in major hide-producing countries to protect their domestic leather industries by embargoes on hide exports. The leather industries of countries like Brazil are being protected—

Against threats of shortages;

Against high world prices; and

Against the competition of a free world market.

Foreign buyers are bidding up the price of our hides and taking advantage of the dollar's weakness because other sources of supply have been closed off. And it has long been the case that those countries which import our hides are among the most protective against imports of U.S.-finished leather goods.

Brazil's Government embargoes hide exports to protect its domestic leather industry, while our tanneries and shoe factories close down. And Brazil is manufacturing for the U.S. market. Brazil's shoe sales to the United States are up 40 percent from last year's levels.

Uruguay embargoed exports in 1974. Argentina quickly followed suit. Since 1975, Brazil has exported no hides whatever. South African hides are available only under a Government licensing system and exports are limited to 1.5 million hides a year.

The fact is that the United States is the only nation which remains totally committed to a free market philosophy.

The American tanning industry, the American leather industry, and the hundreds of thousands of Americans they employ are being asked to bear the entire burden of a shortage that is worldwide. Importers of our hides are unwilling to reduce their imports and share the shortage—they want to protect their industries and workers. I think American workers and American industries warrant that kind of consideration from their own Government.

The Senate will soon be asked to review the implementing legislation for the multilateral trade agreements. One of the principal results of that agreement, we are told, is to increase freedom and reciprocity in world trade. Nontariff barriers to trade are to be reduced and eliminated. The market is to provide the means by which supply and demand of world goods is adjusted.

In theory, it sounds ideal.

But when I look at the situation facing us today in connection with hides, I am compelled to ask at what point can we expect some of that reciprocity?

We have made our supplies available to the world. Other hide-producing countries do not do so. The hide shortfall is worldwide, but the United States' domestic industry is being asked to absorb the entire world shortfall—not merely that portion attributable to our own production decline.

Our Government's efforts to make more supplies available to the international market have failed. Special Trade Representaitve Strauss stated in a letter to me:

> One approach to the problem is to encourage beef-producing countries with export controls on hides to ease their controls . . . We made a major effort in the multilateral trade negotiations to get these countries to take such action. Unfortunately, most countries responded unfavorably to our request.

The fact is, all countries did.

Clearly, when our Nation, which produces 15 percent of the world's skins and hides, simultaneously provides 75 percent of the total hides traded internationally, price inflation and domestic shortages are inevitable.

It is for that reason I seek an amendment to the Export Administration Act.

The policy outlined by this act—and I had something to do with writing the current version of the act when I was a member of the Banking Committee—in section 3(2)(C) specifies that Congress finds a need for export restrictions "to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand."

Mr. President, either that language in the act has meaning or it does not, and if it does not have meaning in this case I cannot imagine a case in which it would have meaning.

No clearer case for export restrictions exists today than the hide situation.

This amendment is moderate and carefully targeted. It recognizes the temporary nature of this shortfall. It will have effect only for the duration of the shortage. It conditions unlimited hide exports on one of two factors:

Reasonable export levels from other hide-producing countries; or

An adequate domestic supply, taking into account export demands.

If neither condition is met, the President could limit the export of U.S. hides to guarantee an adequate domestic supply. No quotas are specified in the law. No rigid limits are demanded. There is no attempt to stifle world trade.

The amendment is simply a recognition that as long as other countries are unwilling to share the worldwide shortage, the United States must look to its own resources to meet demand here at home.

If the amendment results in improved and more successful negotiations with the countries which now restrict their exports, no one will be more pleased than the leather industry.

Our domestic industry does not ask for special treatment to protect itself against fair competition in a free international market.

It requests legitimate and limited Government intervention where free market economics are inoperative. Our amendment would give the industry the limited and temporary help it must have to survive.

Mr. President, I will yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I yield to the Senator from Tennessee.

Mr. SASSER. Mr. President, I rise today to address an issue which is critically important to 40,000 Tennesseans and almost 400,000 other Americans. I join in urging the Senate to take action to secure the jobs of the workers in one of the most labor intensive industries in the United States.

Today, thousands of Tennesseans and hundreds of thousands of Americans are in danger because we have for too long failed to put adequate restraints on the export of cattlehides.

This amendment to the Export Administration Act of 1979 is an attempt to correct that failure. Currently, the leathergoods industry is faced with the possibility of not being able to purchase its most basic raw material—cowhides.

Three-fourths of all cowhides on the world market are produced by the United States. Seventy percent of the American supply is exported. During the last quarter of this year, the United States exported 83 percent of the cowhide supply. We are not just selling cowhides—we are sending American jobs overseas.

As a result of these massive and unrestrained exports, the cost of cowhides has become almost prohibitive for American producers—and the cost of leather products has become almost prohibitive for the American consumer.

The cost of cowhides has risen faster than the price of gasoline. A cowhide that cost 37 cents a pound in 1977 now costs a dollar.

In the shoeshops and department stores of America, our constitutents are paying $10 more for a pair of shoes and $12 more for the price of a handbag. In all, our failure to restrain the export of cowhides could cost Americans $2 billion.

The primary buyer of our cattlehides is Japan. Japan will take our cowhides, but it will not allow us to send her our finished leather products—we cannot sell her the products made by American workers. This allows Japan to buy as much leather as she can with no consideration for cost. The increased costs can be passed on to the buyer in Japan because there is no competition.

Of course, the American producer must also raise the price of finished products because the price of raw materials has gone up. This can be seen in the price of shoes. A pair of leather shoes that costs $20 2 years ago now costs $30.

In the meantime, those people who have traditionally earned their living in the leathergoods industry find it harder to buy shoes and food. They are losing their jobs.

In Tennessee alone, there are 43 shoe manufacturing plants which employ over 12,000 men and women. The shoe industry in my State supports 25,000 other people whose jobs are indirectly related. Thousands of others work in other leather related industries, the furniture, luggage, and handbag industries.

Those people know what exports of cowhides are doing to their industry and their jobs. In the last 2 years, they have seen thousands of their friends go unemployed because we have put no

restraint on the export of cowhides. And they are afraid that they will be next.

Mr. President, other major cattlehide exporting nations such as Argentina, Brazil, and Uruguay, have stopped exporting cattlehides altogether. We do not seek to do that today. We simply ask that exports be limited to a reasonable level.

We seek to limit the export of cowhides to a level at which the leather industries of the United States can survive. We seek to limit exports to a level at which the jobs of 400,000 hard working Americans can be secure. We seek to keep the cost of a pair of shoes at a reasonable and affordable level.

Mr. President, we cannot allow the continuation of massive, unrestrained, and dangerous exports of American cowhides. I strongly urge the passage of this amendment.

(Mr. SASSER assumed the chair.)

Mr. MOYNIHAN. Mr. President, the Senator from Maine has spoken with great clarity and forceful fact with respect to the situation we address in the amendment before us. I would like to supplement his remarks only to the point of stressing the compatibility of what we are doing here with the Multilateral Trade Negotiations (MTN) that have now been concluded by Ambassador Strauss.

I am a member of the Subcommittee on International Trade of the Committee on Finance, and one of those who introduced the implementing legislation to the MTN some 3 weeks ago.

The Senator from Maine is absolutely correct. In these negotiations which have extended over 7 years and which are now completed, Ambassador Strauss on behalf of the United States raised the question of the restrictions on exports from the other hide-producing countries, and pointed out that these restrictions are altogether incompatible with the General Agreements on Tariffs and Trade (GATT). He properly pointed out that other countries' restrictions on exports are incompatible with the principles and thrust of American trade policy since the time of the reciprocal trade agreements of Cordell Hull. Accordingly, the Ambassador asked for a general lowering of these kinds of restrictive activities and that the particular one on hides be given up. The reaction was "No." Not a single exporter would agree to do that.

Their reaction in this instance is part of a pattern of world trade which, in the end, eventually became the focus of the MTN itself. The MTN began as tariff negotiations, as they traditionally had been. But it was realized that it is the actions by government to prohibit exports or imports in one form or another, to impede and effectively to prohibit trade, and not tariffs, that have become the principle inhibiting element in international trade.

Accordingly, the whole focus of the MTN changed to a regime of non-tariff-barrier codes. The purpose of these codes is to prevent such trade restrictive activities or, when they do take place, to authorize governments to respond appropriately when their own economies have been injured.

Now, in the matter before us our economy has been injured in a way that seems altogether inappropriate. And the injury comes from the refusal of other countries to export. We continue to export our hides, following the rules of the game, and our hides are sucked up by nations which ironically are the ones notorious for the nontariff barriers they put on our goods. It is fascinating, for example, that the country most anxious to get our hides is least anxious to get the beef that is under those hides. But try to find the beef that goes with the hide in that country. We cannot. That country uses the hides to make products and export them back here and we lose even more jobs.

What we are doing in this proposal is to give the Government direct authority from the Congress to go out and negotiate further reductions of nontariff barriers—in this case the export restrictions that result in injury to our domestic shoe and leather apparel industries. If they will not do away with those restrictions, the world should know that we will exercise our right under the MTN to act in a similar manner—restrict our own exports to save the industries that would otherwise suffer.

We are asking for equity here. We are supporting the MTN; but we are supporting American workers. We are supporting principles of international trade which, unless our trading partners begin to abide by them, are going to break down a system which has been a half century in construction and has brought incomparable economic benefits to all involved. It is being lost because of the shortsightedness of our trading partners.

I am happy to be a cosponsor with the Senator from Maine. I hope I made clear that, in this Senator's view, this action is wholly consistent with the MTN and, indeed, addresses the central question of the MTN at this time.

Mr. MELCHER. Will the Senator yield?

Mr. MUSKIE. Mr. President, may I ask what time I have? I have only one-half hour and I know several Senators wish to speak.

The PRESIDING OFFICER. The Senator has just under 12 minutes.

Mr. MUSKIE. Then I do not think I should yield to any Senator for more than 2 minutes.

Mr. JAVITS. Mr. President, if I may have 30 seconds.

Mr. MUSKIE. I yield to the Senator from New York 30 seconds; then to the Senator from Massachusetts 2 minutes. Then I shall be happy to yield for a question to the senior Senator from Montana (Mr. MELCHER).

Mr. JAVITS. Mr. President, I have two points. One, I should like to join as a cosponsor of this amendment. I so ask unanimous consent.

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

Mr. JAVITS. Mr. President, second, may I say I do not think any Senator on the floor, for a longer time, has advocated an open trading policy for our country as essential not only to our country's interest but to the peace of the world. But I deeply believe that this is a situation in which we are being imposed upon and that, therefore, unless we take action against such imposition, I think we make ourselves impotent in terms of world trade.

May I just give the Senate this fact, which supplements what my beloved friend, PAT MOYNIHAN, has said. I have a letter from the Special Trade Representative dated July 17, in which he says:

> We made a major effort in the Multilateral Trade Negotiations to get those countries to take such action—to wit, export controls on hides—thereby increasing worldwide availability. Unfortunately, most countries responded unfavorably to our request.

Mr. President, I hope this amendment will get their attention. It is for that reason that I join it.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Senator GLENN be added as a cosponsor.

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

Mr. MUSKIE. I yield to my friend and cosponsor (Mr. BAKER).

Mr. BAKER. Mr. President, I thank the Senator from Maine, my good friend (Mr. MUSKIE) who is continuing a fight he has pursued before and which I have been privileged to join him in on other occasions. I shall not detain the Senate long except to say I believe in this amendment. I think it is appropriate, I think it is fair, and I think it is essential to preserve industry in this country. It is not only important to my State, where approximately 30,000 jobs are in jeopardy unless something is done to provide against the excesses that burden the industry at this time, but also because there are 400,000 American citizens who are directly involved in industries affected by this concept.

Mr. President, I have joined 10 of my colleagues in support of this amendment to S. 737, to allow restrictions on the U.S. exportation of cattle hides.

The leather manufacturing industry in this country is in trouble. It is a difficulty not of their own making and not due to any failure of abiilty to compete effectively. The problem is that the foreign competition in this extremely important industry, that employs over 400,000 Americans (approximately 30,000 in the State of Tennessee) is absorbing between 70 and 80 percent of the raw materials available in this country.

At the same time, American access to the raw material market in cattle hides is severely restricted by embargoes on exports in the major hide-producing countries. The leather industry is facing not only reduced availability, but also a doubled price of its basic raw material. Jobs are jeopardized, and the costs of leather goods are escalating.

The United States is the only "free-trader" in the world hide market. We are simply asking that the President, after receiving the advice of the Secretaries of Commerce and Agriculture be empowered to keep available for sale to American leather goods manufacturers a sup-

ply of hides ample to meet domestic demand. In an equitable, fully reciprocable market environment, the leather industry in the United States can compete with anyone. It is our task either to restore fairness to the competition or follow suit and begin protecting our own raw materials.

Mr. MUSKIE. Mr. President, I reserve the remainder of my time at this point because I have used up the bulk of it and have not given the opposition an opportunity to speak. Later, I shall yield to Senator KENNEDY, Senator TSONGAS and other Senators.

Mr. MELCHER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, I want to take a minute on Senator STEVENSON's time. He has been called away from the floor temporarily. I ask those who are in opposition to the amendment to let me know approximately how much time they want, because there are 30 minutes allocated to Senator STEVENSON, which is the time for the opponents. Senator MUSKIE and others have used up most of the time, I understand, except 6 or 7 minutes, of the proponents.

There are seven Senators. Then we shall try to make it about 4 minutes each, if that is fair.

Mr. MELCHER. Will the Senator yield?

Mr. HEINZ. I ask unanimous consent that I be allowed to yield 4 minutes from Senator STEVENSON's time to the Senator from Montana.

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

Mr. MELCHER. Mr. President, I thank the Senator.

I oppose the amendent of the Senator from Maine. Has there been any CBO study on the inflationary impact if the price of hides is reduced and what result would that have on the cost of hamburger, beef roasts or steaks, in the supermarket? It is a rhetorical question, because if you take it out of the hides, you increase the beef price in the supermarket.

Mr. MUSKIE. I shall be glad to answer that.

Mr. MELCHER. If I had more than 4 minutes, I would be delighted to have the response.

The fact is that there is only a price for a fat steer or for a cow and if you decrease the price of the hide, the price of the meat from the steer or cow is going to be higher.

When considering somebody else's business, perhaps it is good to turn for information to a reliable source of that information from that business. I think every Member of the Senate has in his office or in his possession a telegram from the American Association of Hides, Skins, & Leather Merchants. It says:

The American Association of Hides, Skins and Leather Merchants suggests that the recent alarm about a purported shortage of hides is a result of a misunderstanding of the basic supply and demand factors that affect cattle hides.

The supply and demand situation is such that hides that, earlier this year, were selling as high as 94 cents a pound for Midwest native unbranded premium hides, but has dropped to an average of 78 cents last week for those same premium hides.

It is continuing to drop, and we can probably expect, when we total up what the average price is for this current week, we shall find it is about 70 cents per pound.

That is the situation as it exists now. The telegram goes on to say:

You have recently received information from a U.S. tanner and shoe manufacturing group operating under the name of "Hide Action Program" that there exists a need for export controls of U.S. "animal hides and skins" because the domestic users of these raw materials are unable to buy sufficient quantities to run their factories, and that the reason for their inability to buy the needed quantities is the export of these cattle hides.

The arguments put forth to you are distortions of the fact and the truth. Many statements have been made by the hide action program which are insinuations of malpractice in the export of cattle hides supposedly causing higher hide prices.

By admission of those making these accusations, there is no substantiation of these charges as they are not rue.

The true facts are:

1) U.S. tanners have free and total access to every U.S. hide produced, if they are willing to pay the market price, and if they would make use of hides of all origins within the United States.

Naturally, they are competing with foreign buyers and this is part of the free enterprise system.

2) Hide prices have risen in the United States and world-wide because the U.S. cattle herds are in the process of rebuilding and so are the herds in other countries.

The production of cattle hides in the first five months of this year, due to a reduced kill of animals, was about 14½% lower than last year. Traditionally the kill in the second half of the year, especially after September, increases.

The demand for leather world-wide is large, and consequently the prices for hides, the by-products of the meat packing industry, are influenced greatly under the "old rule of supply and demand".

3) The return meat packers receive for their hides is an important source of revenue. By retaining more hides in this country than the domestic tanning industry can possible use, again, because of supply and demand, hide prices would decline. This would lead to lower prices for cattle which would hurt farmers, cattle ranchers and cattle feeders and which would result in higher prices for meat at supermarkets and the biggest losers will be the consumers.

4) The price of hides represents only 5 to 15% of the total cost of producing a pair of shoes in the U.S. Over the past twenty years, hide prices have risen and fallen reacting to supply and demand, but shoe prices being administered have never declined. In fact, in recent weeks hide prices have declined 15 to 20% from their highs. If, when lower prices prevail, shoe prices remain at their high levels, then it cannot be claimed that only hide prices are to be blamed for higher shoe prices. It should be noted that even with hide prices as they are now, they have not kept up with the inflation rate of the last twenty years due to hides being a surplus commodity.

5) U.S. tanners are working on a reduced scale (approximately 14–15 million hides/yr) because of a lack of orders for their leathers, not because they cannot obtain the hides to tan.

The United States is importing large amounts of shoes and other leather goods and also domestic tanners are buying large amounts of semi-finished leather produced in South America which augments their tanning supplies.

6) Export controls of hides could hurt the United States' balance of payments, especially at a time when we are attempting to increase our exports.

7) From past experience, we know that export controls are extremely difficult and costly to administrate on a fair basis.

Many U.S. shoe manufacturers are also involved in the import of shoes, and the facts indicate that many shoe manufacturers have a good and profitable business.

The U.S. leather industry does need assistance in the form of equitable access for their leather to other countries the same as the other countries can sell to the U.S.A., but not in the reduction in export of cattle hides, a surplus commodity. We support the recent action taken by the U.S. Government special trade group which is trying to rectify the inequities of other countries in permitting access of U.S. leather goods into their markets. We do not support any restriction of exports of cattle hides, a surplus commodity.

We respectfully request you to look into all the facts, past and present, concerned with this industry before voting on any changes in the existing Export Administration Act of 1969 as amended, and to leave this act as it concerns "animal hides and skins" unchanged. We feel that after you have gathered all the true facts from all sides, and after you have disseminated and analyzed the deliberate distorted information which you have received from the "hide action program", that you will agree with us.

Please do not allow jurisdiction for animal hides and skins to be shifted from the Department of Agriculture to the Department of Commerce and please do not pass any legislation which would lead to the unnecessary and dangerous imposition of export controls on animal hides and skins.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. MELCHER. Mr. President, they cannot have it both ways. When hide prices go down, the price of beef in the supermarket has to rise. The whole animal, hide, beef, and byproducts are sold. When fat steers on the hoof have been selling for 65 cents–70 cents per pound, the total cost of a 1,000-pound steer is $650–$700. If the hide weighs 60 pounds at 75 cents per pound, that means $45 of the total cost of the steer, the slaughtering cost, the transportation and handling costs of the beef going to the supermarket, the cutting, wrapping and retail costs are offset by that amount received for the value of the hide. If the hide value decreases $20, the consumer at the supermarket is going to pay that much more for the beef from that steer. And the cattle producer receives either less for the steer or the consumer pays more.

You cannot have less value for the hide without adding price to the meat. The effect of the amendment would lower hide prices, cause beef retail prices to be higher, or give a lower return to the cattle producer.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN addressed the Chair.

Mr. HEINZ. Mr. President, I ask unanimous consent that 4 minutes be yielded to the Senator from Texas on Senator STEVENSON's time.

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

Mr. BENTSEN. Mr. President, I thank

the distinguished Senator from Pennsylvania.

I can understand the concern of the Senator from Maine. I have shoe manufacturers in the State of Texas, and have them in substantial numbers.

I sympathize with their plight and want to be responsive. But when we talk about export controls, we are looking for a short-term fix that will not work.

We saw what happened several years ago on soybeans. What did the Japanese do when they found they were an uncertain source of products? They invested over $1 billion in Brazil to develop soybeans, and now the Brazilians are our principal competitors in the soybean business.

When we talk about placing export controls on hides, the point is made that the consumer will benefit. But if the price of hides dropped by 40 to 50 percent, that would result in a 2-percent saving on a pair of shoes. You could buy $20 shoes for $19.60; that is ,if the retailer did not take the markup for himself.

That is not the sort of price break that will restore the competitive position of our domestic producers. It will not rout our foreign competition. And it will not save the consumer much money.

We have been working, and we did work, with the STR trying to develop quotas and some protection for our shoe-producing industry in this country. We have made some progress, but the basic problem still remains.

One of the reasons we have a problem with hide prices today is that we have artificial controls on the price of beef, which has resulted in liquidation of herds and increasing prices.

If we get into beef production and talk about butchering and packaging, that is a high volume, low profit business.

The Senator from Iowa has one of the major producing plants in the entire country in that business.

Our meatpackers operate on a high volume, thin margin basis. They sell the whole cow after they buy it and, if we reduce the selling of the hide, or depress the price that can be paid, it only means the price of beef goes up.

We have artificial controls working. We do not have supply and demand working in that situation. In effect, we have hurt the consumer.

We would increase the price of beef, a price the housewife already thinks is too high, by this kind of action. We are looking for a very short-term fix that will not work and will not solve the problems of shoe production in this country.

The problems are more basic than that. They require tax incentives that bring about the renovation of the manufacturing—of shoe production in this country so we can be competitive with foreign production.

That is the kind of approaches we should make, trying to do things to modify and strengthen the supply side of our economy instead of saying we will put artificial restrictions on the export of American products.

We are in tough enough shape today with the dollar, but if we take away the surplus we have in exports of agricultural products and begin to depress them, then we will find the dollar is in even worse shape than it is now.

I know the prices of hides are high, and that the price of hide is only a small component of the price paid for a steer or a beef. Buy if we take artificial measures to drive down hide prices, we must consider the psychological impact on the rancher, who is just now getting back off his knees and is finally able to meet the payments at the bank so he can stay in business. Just when this is happening, along comes the big arm of the American Government putting artificial controls on, to see that we do not get the free market price. Such action can only discourage the rancher and put more of them out of business.

I think that is the wrong way to approach the problem of shoe production in this country.

I urge my colleagues to defeat this amendment. I say that we need to do something more substantive that will have a long-term positive effect on the domestic leather industry. We've got to increase productivity in that industry and make it more competitive. We should work to see that our trading partners eliminate their controls on hide exports, and their barriers to our products. I want to help our leather industry, but we're not going to accomplish that objective by taking it out of the hide of the cattle industry.

Thank you, Mr. President.

Mr. CULVER addressed the Chair.

Mr. STEVENSON. I yield to the distinguished Senator from Iowa.

Mr. CULVER. I thank the distinguished Senator.

Mr. President, I rise in opposition to the amendment by the Senator from Maine to impose export controls on cattle hides.

The situation we face here on the floor today is, in my opinion, most unfortunate. I can certainly sympathize with the Senator from Maine's position. The high price of hides, though a temporary phenomenon, is placing in jeopardy several thousand jobs in his State and in other States. These are jobs of relatively low paid workers with few, if any, employment alternatives.

But I hope the Senator can also understand the position in which his amendment places me, and the over 70,000 cattle producers in my State of Iowa. I am sure he will recall that prior to this year, cattle producers in this country lost money for almost 4 consecutive years. As a result, many individuals in Iowa and other cattle producing States, either lost their farms—their jobs—or had to severely reduce their standard of living.

These are not easy circumstances for those of us who have a responsibility to our constituents. Nor am I asking the Senator from Maine to stand by and do nothing for the dedicated, hard working people of his State whose livelihoods are threatened by current economic conditions.

I must, however, voice my opposition to this attempt to assist the leather goods industry at the direct expense of Iowa's and the Nation's cattlemen. And that is precisely what the Senator's amendment proposes to do.

I think we are all aware of the fact that the cattle cycle is now at a point where fewer animals are being slaughtered. This means that fewer cattle hides are being produced. Those of us from cattle States have been watching this situation develop for several years. We all knew it was coming and we have a pretty good idea when supplies will increase: That is, if the Government keeps its hands out of the market and does not destroy the incentives that are necessary for cattlemen to rebuild their herds.

If we have learned anything about consumer protection and agricultural policy over the past 4 years it should have been that interference in the livestock market to the detriment of producers will have the effect opposite to that intended. Every barrier raised to reduce prices will only further reduce supplies available to the American consumer. Without sufficient supplies, neither the consumer nor the leather goods industry can enjoy the economic health we seek for all Americans.

The case against this amendment was well stated in the December 1976, report on the national commission on supplies and shortages which said:

> It is short-sighted to use export controls for the prevention of domestic price increases, no matter how unpopular these price increases may be. Not only are export controls harmful to the income of exporters and to the credibility of the United States as a reliable source of supply, but they are not in the long-run interest of consumers either.

Earlier this week the U.S. Department of Agriculture released a task force report entitled, "The Structure, Pricing Characteristics, and Trade Policy of the Hides, Skins, Leather, and Leather Products Industry."

The report concluded:

> There is serious question about the legality of export controls for hides. Moreover, analysis indicates that they probably would provide no long-term benefits to either the industry or consumers.

Mr. President, the American cattleman persevered through 4 years of negative income. They depleted their savings and mortgaged their land in the hope that the lives and the work they knew and loved would be rescued by better times. Finally those better times arrived, only a few short months ago, Cattle prices have been at record levels this year, at least, for those producers who survived.

Yet already consumer resistance to high prices has led to a 15 percent decline in cattle prices since mid-May. This situation appears to be stabilizing now with prices at a profitable, but certainly not an unrealistically high level. Any action by the Congress that would upset the delicate balance that for the first time in years has restored some confidence, some stability in the often volatile cattle market, would be totally unfair to producers and unwise public policy.

Export controls on cattle hides would

have ramifications that reach far beyond the impact intended by this amendment's sponsors. In 1978, the United States exported $686 million worth of cattle hides. Due to improved prices, the total will be substantially higher this year. These export dollars will make a significant contribution to balance of payments problems caused by energy and other imports.

In addition, other agricultural exports could be adversely affected by such action. We are still experiencing the repercussions of the 1973 embargo on soybean exports. In the recent Tokyo round of the multilateral trade negotiations, significant gains were made in gaining access for our high quality beef to the Japanese market. Japan is one of the biggest customers for U.S. hides as well as our largest customer for all agricultural commodities. Any limitation on hide exports to Japan could jeopardize trade in beef and other areas.

In conclusion, the policy advocated by the proponents of this amendment is a dangerous means of providing short term relief to a narrow segment of the U.S. economy. It is an attempt to take from the half-full pockets of American cattlemen to fill the half-empty pockets of the leather goods industry. I oppose this amendment and urge my colleagues to defeat it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I will need 3 minutes.

Mr. President, I am in sympathy with the statements of the distinguished Senator from Maine and others who are attempting to help tanners and footwear producers, and other industries, in this country.

They are undergoing some hardship because of the hide supply situation. But I just do not believe that what they pursue today by this amendment will accomplish what they might like to do.

Mr. President, no one can deny that the tanners, footwear producers, and other industries in this country are undergoing some hardships as a result of the hides supply situation. However, the method by which this amendment would seek to remedy the problem contradicts the spirit of the bill we are now considering, runs afoul of congressional precedent on this subject, would not really remedy the situation, and would, in the long run, have a broader and more devastating impact on the cost of living in this country than the current state of affairs.

As I have recognized, Mr. President, such industries as the tanners and footwear producers have a legitimate argument in stating that they are undergoing hard times. We have repeatedly been made aware of their plight. For over 10 years, the hide processing industry in this country has been on decline. This year, Congress will be asked to approve the reduction of duties on dye-stuffs so that the tanners can reduce their cost of production—that will be a plus for them. For the past few years, a massive trade adjustment assistance program has been focused on the footwear industry to help it with trade problems which it has been suffering for practically a decade.

So there is no question about the need for special attention to these industries.

I agree that these industries need special attention and innovative ideas to help them out of their quandary. But limiting exports of a product which is in great demand on the international market and which is supplied almost entirely by the United States is not sound economic policy. Right now, the United States supplies about 75 percent of the hides traded on the international market—which is a seller's market currently. Our livestock and meatpacking industries are receiving top dollar for these exports—which is a happy note for our livestock producers, who are just beginning to recover financially from a 6-year economic drought due to the cattle cycle. The hide exports are also a happy note for our entire country, because they are one of the few pluses in an otherwise disastrous trade balance picture.

The bill before us clearly intends to ease up on export restrictions. This amendment flies in the face of this general policy objective. Past attempts to limit hide exports have run afoul of congressional objectives. In 1966 and 1972 attempts to limit hide exports were opposed by Congress. Probably the most convincing argument in opposition to the mechanism proposed in the amendment is that it would have more of an adverse impact on consumers of beef and producers of livestock than it would help the consumers of hides and the consumers of the products they sell. The result of export limitations, and a consequent reduction in hide prices, would be that the meatpackers would raise the cost of retail beef and lower the price they pay for livestock in order to cover their extremely narrow profit margin. Thus, it seems to me that the impact of the proposed amendment will have a greater adverse effect on our livestock sector and consumers of beef—and therefore inflation—than it would have in helping the tanning and footwear industries.

In effect, if we approve this amendment, we will not be robbing Peter to pay Paul, we will be robbing Peter and Paul to pay Simon. It appears that what we will be giving Simon will not buy him much more than a cup of coffee. What I mean is that livestock producers and beef consumers will be adversely affected while the positive effect for tanners and footwear manufacturers will be minimal. For example, estimates are that hides represent only 5 to 15 percent of the total cost of producing shoes domestically. Export controls probably would reduce hide prices, but it is unlikely that shoe prices would be substantially lower because of lower hide prices.

Mr. President, I would like to suggest to my colleagues an alternative to this ill-advised amendment. My alternative pays Peter, pays Paul, and pays Simon—among others. We can take an affirmative step toward solving the hides problem by adopting a program which provides a relatively predictable and steady volume of domestic hides. This will help even out the drastic price swings which the tanners and others encounter and will also give them some predictability in their business planning. At the same time, this program can help the livestock producers by giving them a mechanism whereby they can make more accurate herd management plans and avoid the drastic price swings attendant to the cattle cycle. Of course, such a mechanism would benefit the consumer by stabilizing beef and leather prices and would promote greater job security in the trade-impacted industries. The program I am suggesting is embodied in the countercyclical formula of the proposed meat import law of 1979. That legislation, if enacted into law, would set up a mechanism which would take a positive approach to solving the problems of all the parties of interest in this matter. Of course, the results of the countercyclical formula may not provide an absolute fix for all the problems we are discussing here today, but it certainly would be a more positive and sound economic method of dealing with the matter than that dangerous precedent the proposed amendment would establish.

Mr. President, I urge my colleagues to defeat the proposed amendment. Instead, I suggest they take advantage of a rare opportunity in which we can help each one of the domestic interests involved by supporting the meat import law of 1979.

Mr. President, I ask unanimous consent to have printed in the RECORD some questions and answers raised by those who support and those who oppose this amendment, together with a letter from the Special Trade Representative, Ambassador Strauss, dated June 26, 1979, along with a statement by the administration opposing the proposed legislation.

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

QUESTIONS AND ANSWERS ON HIDE EXPORT CONTROLS

1. Why are hide export controls being advocated?

The cattle cycle is now at the point where less animals are being slaughtered. This, coupled with a continued strong demand for leather and leather products, has increased the price for hides. Tanners, leather users and shoe manufacturers argue that these higher prices are very burdensome to their industry. They want controls on hide exports to drive down the price, thus allowing them to hold down the price of shoes.

2. Do they have a point?

It is doubtful. First, hides represent only 5–15% of the total cost of producing shoes domestically. Export controls probably would reduce hide prices to some degree, but it is unlikely that shoe prices would be substantially lower because of lower hide prices.

3. Have hides been embargoed before?

Yes. Attempts were made to control hide exports in 1966 and 1972, but both times Congress objected.

4. What if export controls were imposed on hides?

Meat packers operate on an extremely narrow profit margin, earning approximately 1¢ per sales dollar. Without being able to sell hides—the single most value animal byproduct—at a fair price, packers would be forced simultaneously to (1) lower what

they pay for live cattle and (2) seek higher wholesale beef prices.

5. You mean export controls would lead to still higher meat prices?

Yes. Higher wholesale beef prices would be passed through to the retail level, thus further pushing up the cost of meat to consumers.

6. Would export controls on hides cause other problems?

Yes. Controls would damage the nation's balance of payments. Farm exports now total nearly $30 billion annually (including over $600 million in cattle hides), which helps to offset the large trade deficits we have been incurring in recent years. Any attempt to restrict exports will once again cause our trading partners to question whether they can continue to depend on America for much of their food and fiber supply. If the U.S. restricts trade in one farm commodity, other nations may conclude that we will do so with others, thus making their reliance on our farm exports seem risky.

7. You are saying that imposing controls would set a dangerous precedent?

Yes. If the U.S. blocks exports every time domestic prices rise rapidly in a certain sector of the economy, other nations will be increasingly unwilling to trade with us—and that will hurt all Americans.

Take Japan, for example. As our number one customer for U.S. hides, Japan has already agreed to limit its purchase of them. For us to limit hide exports now, according to Special Trade Representative Robert Strauss, would simply reinforce the Japanese fear that the U.S. is an unreliable supplier, a fear they have harbored since we embargoed soybeans several years ago.

8. Should anything be done about the current high price of hides?

No. It is a cyclical occurrence, and the forces of the world market place will eventually provide the best solution.

9. Shouldn't the government do anything then to help the shoe and leather industries?

Maybe so. But we should not help one industry by penalizing others, especially with a shortsighted policy which will damage our balance of trade. If these industries are legitimately suffering, the government could establish some kind of economic assistance plan. Another approach is to adopt a countercyclical meat import law which would even out the supply-demand imbalance.

THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS,
Washington, D.C., June 26, 1979.

Hon. RUSSELL B. LONG,
Chairman, U.S. Senate, Committee on Finance, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further response to your May 24 request for the views of this Office concerning Senate Resolution 168, which calls upon the President and this Office to take action to protect the American leather and tanning industry.

I agree fully with the concerns that have led to the introduction of Senate Resolution 168. The price increases we have experienced in raw cattlehides and in leather have resulted in serious economic pressures for our tanning industry, as well as the leather products industry and American consumers. As a result of these concerns, I recently organized a meeting between Members of Congress representing the tanning, shoe, and cattle industries and Administration officials, including Secretary Bergland and Assistant Secretary Weil from the Department of Commerce, to discuss this problem and to explore remedial measures that might be taken. Several of your colleagues from the Finance Committee attended this meeting.

During the meeting, general agreement was reached that the rapid increase in hide and leather prices is due primarily to a reduction in cattlehide supplies resulting from the decrease in U.S. domestic cattle slaughter. In fact, this has occurred previously in four to six year cycles, most recently in 1966 and 1972. It was also apparent that the alternatives for bringing the supply of cattlehides into closer balance with demand are limited.

One approach to the problem is to encourage beef-producing countries with export controls on hides to ease their controls, thereby increasing the worldwide availability of hides. We made a major effort in the Multilateral Trade Negotiations to get these countries to take such action. Unfortunately, most countries responded unfavorably to our request. Nevertheless, we will continue to press hard for results with those countries with whom we are still negotiating, especially Argentina.

Another approach which has been suggested by some is the imposition of controls on U.S. cattlehide exports. However, this approach does not appear feasible for several reasons. First, the Executive does not have clear authority to impose controls on hide exports. When controls were imposed in 1966 and in 1972 as a remedy to high and rising cattlehide prices, the Congress acted quickly in response to strong opposition from the domestic cattle industry to terminate the controls. Given this experience, there is a real question whether controls could again be imposed and remain in place for long without being contested in the Courts or removed by Congressional action.

Secondly, any benefit in terms of reduced hide prices from export controls could be offset by increased prices in the longer term. The cattle industry is now undergoing the process of rebuilding its inventory of cattle. This rebuilding process could be slowed or stopped by action which reduces hide prices significantly. This would aggravate the supply problem in the longer term as cattleherds fail to increase sufficiently to provide a greater supply of hides in the future.

Since there are no good solutions to the supply side of the problem, it was concluded that other alternatives should be explored, including the possibility of a program to provide financial assistance for the industry until such time as the domestic supply of cattlehides increases and prices begin to decline. We expect supplies to increase in 1981. The Departments of Commerce and Agriculture will be working with interested Congressmen to see whether such a program can be developed.

Thank you for giving this Office the opportunity to comment on Senate Resolution 168, and please be assured of my concern regarding this important matter. I believe that we are now on the right track toward finding a solution to this problem.

Sincerely,

ROBERT S. STRAUSS.

ADMINISTRATION POSITION ON PROPOSED EXPORT ADMINISTRATION ACT AMENDMENTS

CATTLEHIDE AMENDMENT

1. This amendment is contrary to the spirit of the recently concluded Multilateral Trade Agreements.

It would severely inhibit our efforts to induce other countries to remove their tariff and nontariff impediments to free trade, including those which restrict the export of cattlehides.

It could encourage other countries to impose restrictions on their exports of basic materials for which the United States is heavily dependent on imports.

2. The amendment is too inflexible.

It would make export controls and quotas on cattlehides mandatory unless the President determines that other hide producing countries which have enacted hide export controls during the past ten years have resumed reasonable levels of hide exports (this would appear to mean that all or nearly all of such countries must have already resumed reasonable levels of exports) or that the domestic supply of hides less exports is sufficient to meet the requirements of the domestic economy. (This would appear to mean that they are now sufficient, not that they are forecast to be sufficient to meet domestic needs during the forthcoming marketing year.)

3. The amendment would appear to require a new Presidential determination each marketing year, failing which export quotas would automatically be imposed. The President is already so overburdened with findings and determinations that he has scant time left for addressing major foreign and domestic issues. It is an unreasonable burden to expect him to act as an individual commodity licensing officer as well.

4. Under this amendment, the determinations which the President would be required to make would not in and of themselves assure the adequacy of domestic supply to meet domestic demand.

The mere fact that other major hide producers have or have not resumed current exports, or that the current domestic supply of hides less export demand is or is not sufficient to meet current domestic demand, would not assure the adequacy (or lack thereof) of the domestic supply during the forthcoming marketing year.

To determine this, other factors would also have to be taken into consideration.

Even if both the determinations in the amendment could be made they would not necessarily constitute adequate criteria on which to base a decision that export controls were not warranted.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. PERCY. Mr. President, I rise to discuss the amendment offered by my distinguished colleague, the senior Senator from Maine, and to state my position on it.

In Illinois, 101 firms are engaged in the manufacture of leather products and they have, without question, been adversely affected by the recent rapid rise in the price of cattlehides. The Commerce Department tells us that, through their monitoring, they have observed a steady increase in the export of hides. Exports have jumped from just over 50 percent of U.S. production in 1973 to well over 74 percent in the first 5 months of this year.

What is more, the price of cattlehides has climbed from about 33 cents per pound in 1973 to a record high of 96 cents a pound in May of this year.

This cannot but pinch domestic users of leather and it is a situation that deserves our serious attention. Imposition of export controls is one way to attack this problem. But it is not the only way nor is it necessarily the best. I believe the adoption of the amendment would actually be counterproductive to both consumers, cattlemen, and leather manufacturers in the long run. Export controls, just like price controls in meat a few years ago, are purely a short-run solution that will not help us with a long-run solution to the export drain. In fact, they often backfire soon after being imposed, harming the very interests they were meant to protect.

Let us just take a minute to look at the origin of this export drain. It stems from export controls imposed by other

major cattlehide exporters—Argentina, Brazil, and Uruguay. The shutoff of these supplies have meant that the U.S. market is the only large supply of hides available to other leather-using countries.

And yet, U.S. cattlehide production is in the downward side of a cycle. As the Commerce Department has reported:

Because cattle hides are a by-product of meat slaughtering operations, the demand for hides has no effect on the supply. Beginning in 1974, high feed costs and low returns on investment forced cattle growers to send more calves and cows to market. This liquidation of breeding stock resulted in a decline in herd population which subsequently led to annual declines in cattle slaughter beginning in 1977. Cattle slaughter is expected to decline further through 1980.

In other words, supplies of hides are tight in this country because of the condition of the overall cattle industry. If we had a buoyant and growing cattle industry, we could accommodate more of the demand from abroad.

Mr. President, I might digress a moment at this point to remind my colleagues that one reason for the low number of cattle hides produced in recent years is the volume of imported meat that has been entering the country, deterring the rebuilding of cattle stocks. If we had a more comprehensive policy, recognizing the link between hides and beef production, we might not be in this situation today. That is the type of long-run solution that will help both industries, and it is the type of solution we should pursue.

Our Special Trade Representative acknowledged the importance of a long-run solution in a July 17 letter to my colleague from New York, Senator JAVITS.

In that letter, he said:

One approach to the problem is to encourage beef-producing countries with export controls on hides to ease their controls, thereby increasing the worldwide availability of hides. We made a major effort in the Multinational Trade Negotiations to get these countries to take such action. Unfortunately, most countries responded unfavorably to our request. Nevertheless, we will continue to press hard for results in this area during future bilateral negotiations. We are now working closely with Argentina in search of a mutual satisfactory means for that country to liberalize its embargo on hides.

He continued by noting that:

It was, therefore, concluded at the recent meeting between several Congressmen and Administration officials that we should examine the possibility of a program to provide financial assistance for the industry until such time as the domestic supply of cattlehides increases and prices begin to decline. We expect supplies to increase in 1981. The Departments of Commerce and Agriculture will be working with interested Congressmen to develop such a program.

Mr. President, let me conclude by pointing out that the Council on Wage and Price Stability (COWPS) and the Department of Agriculture (USDA) joined together this year to study the hides situation and issued a report earlier this month. They came out against export controls on hides as not in the long-term interest of either the industry or consumers. The report also made these points:

Productivity in the U.S. leather manufacturing industry has not kept pace with other industries and "although many factors contribute to this stagnant productivity, it remains a major cause of the current problems";

The most feasible long-run approach to the hide shortage is for the United States to continue pressing for freer trade. "In terms of liberalizing trade, freeing up hide supplies for the world market from countries such as Argentina, Brazil and Uruguay probably offers the most relief"; and

Increased assistance should be offered to the domestic industry for R. & D. so they can improve their productivity.

The USDA report also quoted the National Commission on Supplies and Shortages of 1976 on the subject of export controls, which said:

It is shortsighted to use export controls for the prevention of domestic price increases, no matter how unpopular these price increases may be. Not only are export controls harmful to the income of exporters and to the credibility of the United States as a reliable source of supply, but they are not in the long-run interest of consumers either.

This is the kind, an issue when you are damned if you do and damned if you do not. On balance, I feel the weight of evidence would be to protect the overall national interest in both the short- and long-run by defeating the pending amendment.

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. WALLOP. Mr. President, I rarely feel paranoid. It just is not one of the characteristics that God laid on my personality. But the issue of limiting hide exports, in fact, does get down to that point.

The Senator from Maine has suggested that his amendment is important and fair, and guess it all depends on whose ox—if you will forgive the phrase—is being flayed here.

In this instance the amendment has an immoral characteristic which I think needs to be pointed out. I do not say this is the actual intent of the cosponsors. But, I do say that you cannot take an industry in which, on the one hand, you consistently allow imports into this country, which creates a lush level of competition and then, on the other hand, tell cattle and hide producers that they cannot export the only product that remains of their domestic industry. It is an almost unbelievable set of circumstances.

Mr. President, I used to be in the packing plant business. I had my own packing plant, and I worked all phases of it. The last year I was in that business, I got an average of about $6.18 a hide. I understand that now they are getting closer to $23 a hide, and this is a small packer's market. You will find different figures if you look at the national packer's market. The small packers always have a discount as opposed to big ones.

I did not see a soul coming and saying, "You need a little support in your industry to raise the prices." Nobody from the shoe industry approached anybody in the small packing or large packing industry at that time. But at that time they were resisting any attempt to limit imports, and we today have the imports of beef products into this country at higher than the legal limit.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. WALLOP. Mr. President, the Senator has his own time and he can answer me at that moment. I have only 3 minutes.

What is happening is that you are exercising your right at the expense of somebody else's right, and it is not a fair approach.

I point out that in 1972, we had a limited supply, and we had a hide export prohibition. It has been concluded that why we do not limit hide exports today is because the 1972 law did not function.

I quote:

The present version of section 4(f)1 resulted directly from the Commerce Department's imposition of short supply in this case on cattle hide exports in 1972.

Can we not learn from the experience of the past?

I wish the Senate, in the interest of fair play, would use the multilateral trade negotiations, use the other means of countercyclical imports, to adjust some fairness of supply and demand on hide prices, and not, take it out on the cattle industry who already bears the brunt of massive imports.

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. DANFORTH. Mr. President, I find that this amendment puts me in an almost intolerable position.

Back in the 1940's, at the time the St. Louis Browns were still in existence, it was said that St. Louis was first in shoes, first in booze, and last in the American League. Shoe production was a major industry there.

In fact, the State of Missouri is the third largest employer in leather and leather products—third only behind the States of New York and Massachusetts.

Clearly, this amendment would be of benefit to a number—thousands—of my constituents who are in a very hard-pressed industry right now.

However, at the same time that Missouri is third in employment of people who work in the leather industry, we are second to Texas to calf production. So, clearly, the amendment, which would be helpful to some of my constituents, would be most injurious to many others.

Therefore, I fall back on a basic philosophical question to try to resolve this conflict, and it is this: Is the future of America, is the directon we are going to take as a country, going to be one of restrictions on trade policy; or, instead, is our future and the oppotrunity for growth of our economy going to be in the direction not of restrictions but of expansion of trade.

It is my hope that the plight of leather workers can be helped by the Tokyo round of GATT which was just completed. I have written to Ambassador Strauss, asking him to do everything he

can to put pressure on other governments to lift the embargoes that exist in their countries so that more hides would be available for export into our market. It is my hope that as a result of the completion of the Tokyo round, the use of an embargo by other countries to depress their domestic prices of hides will be viewed as a subsidy which is subject to countervailing duty.

Therefore, it is my hope that as a result of GATT, and as a result of the freer trade policy arising from it, some assistance will be on the way for leather workers.

I do not believe that embargoes work. I believe that the history of embargoes has been disastrous, particularly for the agricultural sector of our economy. For that reason, Mr. President, I oppose this amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Senator MUSKIE has yielded me 2 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as Senator MUSKIE has stated, I believe this amendment offers a reasonable and moderate solution to what is truly an extraordinary problem for over 400,000 leathergoods workers and every American consumer.

This measure is a last resort. Numerous attempts have been made to negotiate a solution with other hide producing countries. The fact is that our special trade representative, in trying to deal with the two countries which refuse to export hides—Argentina and Brazil—was essentially rebuffed. When this issue was raised at the multilateral trade negotiations, he effectively reached a stone wall.

The amendment of the distinguished Senator from Maine, of which I am a cosponsor, is a measured response. It is an interim response which attempts to deal with a matter of enormous importance not just to an industry, not just to leather and footwear employees, but also to the consumers of this Nation.

The fact is that from 20 percent to 40 percent of the wholesale price of shoes is attributable to the price of hides. This translates into a price increase of between 9 and 10 dollars at retail for a pair of leather shoes. Consumers, already hard hit by skyrocketing prices in most other sectors of the economy, deserve some measure of relief.

I have listened with interest to those Senators from agricultural States who have spoken. I share their deep concern for the interests of the American cattle industry. I share their concern over past mistakes which have jeopardized the interests of this vital industry. I would not support this amendment if I thought those interests would be jeopardized. But the fact remains that when we have had stability in beef prices, we effectively had stability in the hide prices. And the price of hides, which account for only 7-10 percent of the value of a steer, is not a significant factor in the decision to rebuild stocks. Beef and grain prices have much more to do with these decisions.

This amendment offers a reasonable and interim solution to the serious problem of artificially high hide prices. It says: Let us try to work this out through negotiation. Let us be sensitive to the unique problems posed by the lack of free and fair trade. Let us take this approach until we are able to build up the beef herds in this Nation, which have diminished and which were the result of adverse policy decisions. But at least let us have the opportunity to assure that the consumers of this country are not going to once again find that as a direct result of foreign government restrictions, they are paying outrageous prices for one of the essential commodities of their lives.

Mr. President, I strongly support this amendment. It will correct a trade imbalance which both jeopardizes the future of our footwear and leather industries, and strikes at the pocketbooks of all Americans.

Since 1978, cattlehide prices have risen an astounding 126 percent. Hides that cost 37 cents a pound in 1977 now cost over one dollar a pound. One shoe manufacturer told me that a family of five can expect a total shoe bill of at least $500 in 1980—about $100 more than the bill for last year's shoes. Of course, all leather products are affected by this dramatic rise in the price of hides. And if we don't act now to moderate these price increases, all Americans will be forced to pay $2 billion more for leather products. Two recent articles, in Forbes and Retailweek magazines, provide excellent summaries of the consumer impact of these price increases. I ask unanimous consent that these articles be inserted in the RECORD at the conclusion of my remarks.

The severity of the problem stems primarily from the fact that foreign purchases of U.S. hides have reached unprecedented levels. Historically, export demand has taken about half of U.S. hide production. In the last few years, however, exports have skyrocketed. From March through May of this year, 83 percent of U.S. hides were exported.

This extremely high level of exports is not the result of substantially increased world demand for hides. If hide prices were only the result of worldwide demand that the free international market could not satisfy, I would not be recommending this government response.

The fact is that the world market in hides is not free. As I mentioned earlier, major hide-producing nations—Argentina and Brazil—are now protecting their own domestic industries by embargoing the export of their hides. As a result, the United States has become the primary source of supply for hides in the world market. Even though we produce only 15 percent of the world supply, U.S. hides account for 75 percent of those traded in the world market.

This huge demand for cattle hides overseas, particularly in Japan and Korea—coupled with hide export restrictions in other countries—now threatens the jobs of 400,000 employees in the footwear and leather industries. And it threatens every American consumer who has been forced to bear high prices for all leather goods.

To say that we should simply wait for substantial increases in cattle production ignores the imediate problem. I met with Secretary Bergland last month to discuss this issue, and he advised me that herds would not be substantially increased for at least 2 years. Production is not expected to return to 1978 levels until sometime between 1983 and 1985. We simply cannot afford to wait that long.

This amendment provides a reasonable form of relief, and is designed to be effective only for the duration of the hide shortfall. Most importantly, it is designed to promote the free trade of hides. Under this amendment, any U.S. export controls would be lifted as soon as other hide producing countries resume reasonable levels of exports.

This is a reasonable amendment which takes into account the legitimate interests of both the leather industry and the cattle industry. It provides the consumer with badly needed relief from rising prices. It provides a fair share of cattle hides to allow our industries to keep producing, and the more than 400,000 employees in the leathergoods industry to keep working.

I urge my colleagues to join me in supporting this measure.

Mr. President, I ask unanimous consent that the articles written by Richard Greene be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE LAST ROUNDUP FOR LEATHER?

(By Richard Greene)

The signs are there, like vultures flying over a diseased, but still breathing, man. It's been years since you could easily find a leather baseball glove made in the U.S. The pair of leather shoes that cost $20 two years ago goes for over $30 today, and it's difficult to find them at *that* price. All-leather attache cases are out of sight, many selling in the hundreds of dollars.

At the same time, the fashionable gent in Tokyo is wearing all-leather shoes, carrying a leather attache case, and probably playing baseball with a Japanese-made leather glove. Which wouldn't be so ironic if it weren't for the fact that the Japanese raise virtually no cattle—the raw material for leather. No, it's the U.S. that raises all those cattle.

Says Lawrence McGourty, president of Melville's Thom McAn shoe division, "The Japanese wear leather because they know Americans wear leather and they want to be like Americans. But if they keep it up, they'll be the *only* ones wearing leather."

So, naturally, with skyrocketing prices and high international demand, the tanners are cleaning up, right? Wrong. Dead wrong. The tanning industry, which has been dismal for years, may be on its last legs. Take Newark, for example. Pre-World War II, there were some 60 tanneries in that New Jersey city. Now there are three. Just ten years ago some 30 million hides were processed domestically for leather; now it's half that.

The problem, basically, is that there is a leather shortage. Last year 40 million head of cattle were slaughtered in the U.S. and this year it will probably be down to 34 million. So, the supply of hides is down. Meanwhile, the demand remains high. It is hardly surprising, then, the prices in Decem-

ber 1978 were 52 percent higher than a year earlier, and by last April they had risen 147 percent since December 1977, to 94.2 cents a pound.

The pressure driving these prices up is not only the decreasing number of hides—a phenomenon of the cattle cycle—but also the huge demand overseas, particularly in Japan and Korea, for those hides. Since 1976 the U.S. has been exporting a larger and larger percentage of its hides; 71 percent of U.S. output is now being exported, to supply about 75 percent of the hides traded on world markets.

According to Eugene Kilik, president of the Tanners' Council of America, domestic tanners just don't have much of a chance at getting to the hides. There are arrangements, he claims, in which the Japanese offer to pay 10 cents a pound more than the best bid made by American firms. That's the kind of offer you just can't beat. Especially as the Japanese restrict U.S. incursions into their profitable market.

To add to the problem, the U.S. is virtually the only nation supplying Japan's lust for hides. The other major cattle-producing countries, like Brazil, Argentina and Uruguay, ban export of hides, preferring to compete with finished leather goods. That's a good idea for developing nations because it means jobs; shoes, handbags and the like are labor intensive. Unfortunately, this leaves the U.S. as virtually the only free-market nation in an unfree market.

Since there is little that can be done to persuade the Brazilians and others to sell their raw hides, the U.S. leather industry is in a quandary. The shortage doesn't hurt only the tanners, it hurts manufacturers of shoes, handbags and garments as well as retailers who find it difficult to sell a pair of $25 shoes for toddlers.

Says McGourty, "This is the first time I can remember in the shoe business that everybody—the tanners, the high price shoe retailers, the popular price shoe retailers and the manufacturers—is working together to persuade the government to do something."

Last year they had some success. The government negotiated some concessions from the Japanese. Said the leather industry: Too little, too late.

Essentially, the leather industry wants a limited embargo on the hides being exported. This will ease the market here and provide blessed price relief. And Congress listens—at least a little—to an industry that employs about 300,000.

There is even precedent for this kind of limited embargo in the 1969 Export Administration Act, which President Nixon tried to use in July 1972 to put some restrictions on hide exports. By August the cattle lobby had pushed in an amendment and the restriction disappeared.

The fact is, not everybody thinks the leather industry needs—or deserves—help from the government. The producers of hides—cattlemen and meat packers—would be hurt in the pocketbook by any form of restriction on their exporting hides. They argue that they should be able to get the highest price possible for their goods. Listen to Bill Delph, vice president of Iowa Beef Processors, one of the largest U.S. hide producers: "The tanners are not being shut out. They can buy hides. They can get all the hides they want. But they're going to have to pay for them." The cattlemen mirror that sentiment—perhaps even more strongly.

Funny, isn't it? These are the same people who scream bloody murder if the U.S. lets in foreign meat to hold prices down. They are about as protectionist as they can be then. But when it comes to their precious hides—why, there's nobody here but us free-traders.

ON THE TRAIL FOR CATTLEHIDES

The recently launched Hide Action Program may turn out to be the domestic leather industry's last stand. Unless export controls are imposed, the U.S. leather industry won't be able to afford the price of U.S. cattlehides.

Time was, the leather industry—from tanning to turning out the finished product—was a major U.S. industry ranking right up there along with the likes of the steel industry. Today, those who are still left in the U.S. leather industry are finding it necessary to band together and attempt to impress upon Washington that this industry is in danger of becoming as extinct as the buggy whip.

Yes, everyone in Washington already knows that the shoe people in particular have been living with a knife in the back known as imports. But what the entire leather industry is trying to explain to Washington is that as difficult as it is to compete with imports of finished goods, the manufacturers of footwear as well as handbags, luggage, outerwear, sportswear, et al., might as well throw in the sponge if they cannot buy the U.S. hides needed to make U.S. products because the majority of them are being sold to those same countries which produce the finished products, which come back to the U.S. to haunt the industry for the second time around.

The irony of the situation is that the United States is the major supplier of cattle hides to the world, representing about 15 percent of the world supply. But the majority are sold abroad with these exports representing about 75 percent to 80 percent of the world supply. This world-wide demand for U.S. cattlehides is exacerbated by the fact that other countries with substantial herds—such as all the South American countries—totally prohibit the export of hides; preferring to keep them at home to develop and protect their own leather industries. These restrictions create an inordinately high demand for U.S. cattlehides that has been abetted by the cattlemen's restrictions in the size of the cattle slaughter.

This combination of foreign demand, South America's refusal to sell hides, and a reduced U.S. cattle slaughter have caused the price of U.S. hides to skyrocket. The domestic industry's dilemma began in 1972 when Argentina cut off its sale of hides, eliminating about 12-million hides from the world market. Hide prices then jumped from 14 cents to 32 cents a pound, then stabilized in the area of 38 cents a pound. At that time the U.S. exported about 48 percent of its hide supply.

But between 1975 and 1977 U.S. cattlemen began to reduce the size of their herds. Cattle slaughter peaked in 1976 when 43.2-million hides were available, but it is estimated that the number of hides available in 1979 will be down to 34.2 million. While supply has been dwindling, however, world demand for U.S. hides has been escalating; exports are expected to take 24.5-million of the 34.2-million in 1979. This means that the U.S. in 1979 will be exporting 71.6 percent of its hide supply and supplying 75 percent to 80 percent of the world hide trade. This export level also means only about 10-million hides will be left for U.S. producers when domestic requirements for hides are between 18- and 20-million a year.

This shortage has created price levels that the industry cannot afford to pay, even if enough hides were available. The jump from 14 cents to 38 cents in the early 1970s looks like the good old days. By December 1978 prices reached 58 cents a pound; but between December 1978 and May 1979 prices zoomed to more than $1 a pound.

Neither declining supply nor higher prices have dampened the foreign appetite for U.S. hides. Where else are the Far Eastern and Eastern Bloc countries—anxious to build a business in finished leather goods but without a cattle supply of their own—to go for hides? The U.S. is virtually the only country left with both a large cattle supply and free-buying access to this supply.

The country taking the greatest advantage of U.S. policy is Japan. Though it closes its doors to U.S. finished leather products, Japan, nevertheless, has an insatiable appetite for U.S. hides; buying 35.9 percent of U.S. hide exports in 1978. The purchases of Japan and Korea combined account for more than 50 percent of exports with 30 other countries accounting for the rest. Due to an exchange rate advantageous for Japan, the price of U.S. hides has not deterred Japanese purchases. On the contrary, the Japanese have been buying more.

The upshot is that neither Brazil, Argentina, Uruguay, Mexico, India nor Pakistan—countries with substantial herds—will sell hides in the open market. They want to protect their domestic industries. Japan, Korea and the Eastern Bloc will buy almost all the hides the U.S. has to sell, but they will not take finished leather goods. They want to protect their domestic industries. That leaves countries such as Canada, Australia, New Zeland and those in western Europe as world markets for the sale of hides; but it is the U.S. that has the greatest supply. Now the U.S. leather industry is saying—enough is enough. It is saying it doesn't object to operating within the traditional laws of supply and demand; but it cannot survive when, in reality, this means only the U.S. has the supply and every other country makes the demand.

That is why several trade associations in the industry have banded together to launch what is called the Hide Action Program (HAP). This program is an attempt to bring the plight of the industry to the forefront through demonstrations in cities hosting leather-using industries and by blitzing members of Congress and President Carter with letters and personal visits. The program's goal is to convince Washington that action is needed now in the form of export controls on U.S. hides that would both bring down the price of hides and make more of them available to U.S. producers.

HAP's message is that the alternative to action from Washington is the ultimate extinction of the domestic leather industry with the resulting loss of thousands of jobs or, at best, price increases in leather products that the industry estimates could cost customers over $1-billion a year. Given the high U.S. hide prices and the fact that foreign countries are dependent on these hides, customers switching to imported leather products is no longer a viable alternative in an effort to economize. Neither U.S. nor imported leather goods may be affordable by U.S. consumers.

Unfortunately, this recent mobilization by the industry has only a slim chance of producing results. Though it has been aware of the hide situation since 1972, Washington has never displayed any great sense of urgency in alleviating the problem. In 1972, following Argentina's action, the concept of export controls was entertained and then quickly dropped. Since then, despite preferential tariff treatment for the so-called developing countries, these same countries have ignored Washington's efforts to persuade them to sell their hides on the open market. And, negotiations with Japan have extracted only an unofficial promise that it will reduce purchases of U.S. hides by 10 percent. But, even if Japan were to honor this 'promise'—which it hasn't—this 10 percent figure is meaningless since U.S. cattlehide supplies have decreased by much more than this 10 percent figure.

Leather industry members claim that it is only their current desperate plight and past failures in attempting to resolve the problem through negotiations with foreign countries that have left no choice but to push for export controls. If this means that the U.S. leather industry is going to have to explain this 'protectionist' move—so be it. The industry prefers free trade in hides but has been unable to achieve it. Understandably, the industry is now tired of being "the unwitting pasty in the international free trade game". So it is shooting for export controls because all else has failed.

Unfortunately, there is another and more powerful lobby in Washington; they know how to use a sixshooter, too. This lobby consists of the cattlemen, or as the leather industry prefers to call them, the cowboys. They have already made it clear to Congress and the Administration that they don't hanker for hide controls. They like things just the way they are. Evidently their message has been heard, for the Administration has already also declared itself against export control of hides.

But, never fear, Washington will concoct a solution, even if it is the wrong one. Right now Washington has suggested that it might be willing to provide subsidized loans to enable U.S. industry members to afford U.S. hides. Unfortunately, Washington has overlooked the fact that loaning money to U.S. manufacturers for the purpose of buying hides at already inflated prices will merely drive the price of hides even higher, insuring that more and more of the domestic leather industry will surely go down the drain.

It is now high noon for the domestic leather industry. The HAP program is, at least, a sure sign that it intends to go down fighting.

Mr. MUSKIE. Mr. President, I yield 1 minute to Senator TSONGAS, 1 minute to Senator DURKIN, and 1 minute to Senator HUMPHREY out of, I think, 6 minutes remaining.

Mr. TSONGAS. Mr. President, I thank the Senator for yielding.

Mr. President, I ask unanimous consent that a resolution passed by the legislature of the Commonwealth of Massachusetts adopted June 26, 1979, 4 weeks ago, be printed in the RECORD.

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

RESOLUTION

"Whereas, American shoe manufacturers, who recently began to rebound from the flood of cheap imported footwear, now find themselves shod with a potentially more crippling problem, the steadily increasing prices for a shrinking supply of domestic cattlehides; and

"Whereas, the price of American cattlehides has more than tripled in the past 17 months, and hide prices have risen by more than 68 per cent since January, from 59.3 cents per pound to one dollar per pound as of last month; and

"Whereas, the impact of such increases on consumers will probably be felt next year, and at least two of New England's major shoe firms fear continued higher prices could lead to layoffs and possibly shutdowns in leather-related industries; and

"Whereas, primarily because of Taiwanese and Korean imports, the footwear industry currently employs about 14,000 workers in Massachusetts as opposed to an employment figure of more than 20,000 eight years ago, but the hide market situation may prove a more serious aggravation, hitting the industry from the inside; and

"Whereas, as the United States provides 75 per cent of the world's commerce in hides yet accounts for only 15 per cent of the supply, the main reason for the bleak outlook is the at most of the domestic hides are being exported to nations which capitalize on the devalued dollar, where they fetch a higher price than if they were sold to American tanneries and leather processors; and

"Whereas, the high amount of exports combined with a steadily declining slaughter rate have resulted in scarce supplies at inflated prices of raw materials needed by producers of shoes, handbags, belts and other leather goods, so that increased hide prices could cost consumers from 1 to 2 billion dollars; therefore be it

"Resolved, that the Massachusetts House of Representatives hereby urges the President and the Congress of the United States to pass legislation whereby a limit shall be placed on the number of hides which may be exported from the United States; and be it further

"Resolved, that the President's special trade advisor, Robert Strauss, be exhorted to convince Brazil and Argentina to cease and desist from restricting the export of their own hide supplies, which would relieve some of the demand in foreign quarters on the purchase of material from the United States; and be it further

"Resolved, that copies of these resolutions be forwarded by the clerk of the House of Representatives to the President of the United States, special trade advisor Robert Strauss, the presiding officer of each branch of Congress and to the members thereof from this Commonwealth."

Mr. TSONGAS. Mr. President, I rise in support of the amendment introduced by my distinguished colleagues, Senators MUSKIE and BAKER.

It is not necessary for me to repeat the overwhelming supply/price statistics that have dominated the debate this afternoon. All of my colleagues in the Chamber today are aware of the conditions that have led to this amendment.

The situation that confronts us is not one of narrow parochial interests. Rather, the action that the amendment proposes is remedial. The United States is the world's only major producer of hides that does not restrict exports. I believe in free trade. But a free market does not exist. While the United States produces a scant 15 percent of the world's hides, it supplies over 75 percent of the world market. If we could convince other hide producers to follow our lead, there would be no problem. But that is not our current situation. Argentina and Brazil have effectively imposed export controls for over a decade, resulting in a tightening of world supplies. The United States has singlehandedly assumed this burden.

Next week the Senate will consider the implementing legislation for the multilateral trade agreements. These agreements constitute a major achievement of Special Trade Representative Robert Strauss and the Carter administration.

A number of tariff and nontariff barriers that have traditionally obstructed world trade have been effectively removed. Impressive inroads have been made for the export of a wide range of American goods, particularly agricultural and technological goods. Negotiations were undertaken and successfully completed protecting a number of particularly sensitive domestic industries. But little action was taken to alleviate the very real crisis facing our Nation's leather and tanning industry. As long as several of our key trading partners persist in controlling the free flow of trade in hides, to the direct detriment of U.S. consumers and leather producers, we do not have an atmosphere of free trade.

The Muskie-Baker amendment is a moderate, reasonable solution to a critical problem. The amendment as proposed gives the administration the preferable option of bargaining with the principla hide-producing countries. Only if the United States fails to put an end to the protectionist measures of trading partners, and at the same time domestic supplies are not adequate to meet domestic needs, would some sort of limit be placed on the quantity of U.S. exports. This amendment carries no quantitative restrictions. Exports would be limited to a level that the President determines is representative of hide export levels.

Mr. President, I ask the Senate to remedy this grossly inequitable and inflationary condition. Consider the American consumer, and the future health of our Nation's economy.

Mr. President, I think it is quite true that there is a certain regional conflict here, and that is unfortunate. But the conflict is really between one section of the country that has an industry that is on the ropes and another section of the country that has an industry that is experiencing a bonanza.

If you look at the prices of cattle hides over the last 6 years going from 33 cents to 85 cents, that certainly outstrips any definition of the rate of inflation.

What we are seeking is simply the capacity of our industry to survive, not necessarily to prosper, and it is in that direction that I commend the Senator from Maine.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

The Senator from New Hampshire is recognized.

Mr. DURKIN. I thank the Chair.

Mr. President, I am pleased to be a cosponsor of this amendment being offered by the distinguished Senator from Maine, Mr. MUSKIE, to amend S. 737, the Export Administration Act. I commend the Senator from Maine for his leadership on a very important issue not just to our area of the country but to many areas of the country.

The purpose of this amendment is to insure domestic users of leather of adequate supplies of their basic raw material. And let us face it. Today there is no free world market in hides. Although the United States produces only 15 percent of the total world supply of cattle hides, we provide over 75 percent of the world market. Many foreign hide-producing nations have placed embargoes on the extent of their own hide supplies and refuse to import U.S.-finished leather goods.

I think we have seen the failure of the trade negotiations. Countries are not willing to cooperate. Japan is not willing to cooperate. Japan takes almost 24

percent of U.S. hide exports, but refuses to permit sales of U.S. leather goods in Japan. Free trade must mean fair trade.

In my area of the country we have seen thousands and thousands of shoe workers who witness the factory door swinging shut for the last time. It is at least once a month that we see that some shoe company has closed its door for the last time.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. DURKIN. Mr. President, I ask unanimous consent to revise and extend my remarks.

Mr. President, only immediate and forceful action can reverse the dire plight that the American Tanning and Leather Industry presently faces.

The world-wide situation is this: At a time when cattle hide supply is in the course of a cyclical downturn, as a result of a slide introduction by the beef industry, the United States with only 15 percent of the total supply is in the unenviable position of providing over 75 percent of the world market. Last year 39.5 million cattle skins were produced. This year production levels will drop to 34.5 million. The leather industry anticipates there will be a shortfall in domestic supply requirements of almost 10 million cattle hides. As late as May of this year we were exporting 83 percent of our hide supply. The logic of this situation completely escapes me.

Massive foreign purchases of our cattle hides resulted in prices going through the roof. No industry can sustain a 900-percent increase in its basic raw material over a 4-year period, and expect to survive. With a question of inflation preying on everybody's mind we ought to recognize that the estimated cost to American consumers of increased leather goods prices is $2 billion in the next year. In an $8-billion industry, an increase of that magnitude is too significant to be ignored by a country waging a war on inflation.

It is unconscionable that we could continue to allow a drain of our own natural resources to the detriment of an American industry so as to provide for free trade of this commodity. We are not talking about free trade here. There is no free trade when the other major hide producing countries have placed embargoes on the exports of their own cattle hide supplies, creating an artificial world marketplace. The very viability of an entire industry is being called into question as we fiddle here with talk of "free trade."

In testimony before the U.S. Senate Agricultural Committee a member of the board of directors of the Montana Cattlemen's Association stated:

> The senseless policy of exporting hides and skins—raw leather—has all but phased out the American tanning industry and therefore the American leather goods industry.

She concluded in stating that:

> We are Americans. We live by American standards, pay American taxes and believe that as Americans we have the first right to provide goods and services for our fellow Americans.

I could not have better stated the situation myself.

I cannot continue to stand by and watch as 400,000 American jobs are threatened in the tanning and leather industry. At least once a month the doors of a New Hampshire footwear manufacturer are slammed shut; in direct response to the adverse impact of shoe imports upon domestic industry.

The amendment we are submitting today is tailored to the exigencies of the immediate situation, stipulating that until foreign governments move their own export controls or adequate supplies are available to domestic users, the United States will limit our cattle hide exports to reasonable historical levels. The amendment is both reasonable and flexible.

All other avenues of action have failed to produce a solution, however valiant our negotiated attempts. At the Office of the Special Trade Representative's own admission, they have failed to arrive at an acceptable conclusion in bilateral or multilateral negotiations. We are then left with the unavoidable choice of implementing export controls or witnessing the total demise of the American tanning and leather industry.

I believe the choice is clear. I urge you to join me in supporting the Muskie amendment to S. 737.

FREE TRADE

There is no free world market in hides. The United States produces 15 percent of world supply—provides 75 percent of trade in cattle hides.

Argentina and Brazil produce 10 percent, but export none. India and Pakistan export none.

Italy asked for export controls at Brussels meeting, EEC. Purchased 1.2 million hides last year. Already in this first quarter of the year—Italy has purchased over half a million—524,000.

Italy has sold us 11.6 million more shoes this year than last—a 70-percent increase.

Mexico embargos all hide exports. Mexico bought 1.9 million hides last year and had purchased 863,000 by end of May 1979. Mexican exports shoes to United States—up 61 percent from 1978.

Romania is the fifth largest purchaser of U.S. hides—bought 1.9 million last year. Value of Romanian exports to United States up 7.8 percent from last year.

We are importing inflation—not just shoes.

TRADE RECIPROCITY AND FAIRNESS

Eastern Europe purchasing decisions are not based on economic determinations as we understand them. They buy as a matter of government policy.

Eastern Europe buys 13 percent of U.S. hides, but does not buy U.S. finished leather goods. Romanian exports to the United States are up seven-eighths percent in value over 1978.

Brazil exports to United States are up 41 percent from 1978. Their value is up 13 percent.

Brazil is building up and protecting her leather industries and using United States as a market. Brazil argues that it is a developing nation and should be treated differently. I disagree.

This is not free trade. The U.S. leather worker is being asked to help subsidize and protect Brazilian leather workers, at our expense.

Japan buys from behind a protected market. It can pay these prices because Japanese leather products do not have to compete in price with others, such as ours.

Japan takes almost 24 percent of U.S. exports, but refuses to permit sales of U.S.-finished leather goods in Japan.

The recent modest agreement to sell leather to Japan is not being implemented.

Korea and Taiwan took 4.7 million hides between them and sold the shoes to the United States. We were forced to undertake orderly marketing agreements because of the flood of imports. Our overseas competitors have tried to circumvent these by selling quasi-finished products instead.

Let us look at the balance of payments in leather.

[In millions]

1978 figures:	
U.S. sold $687 million in hides abroad	+$687
U.S. sold $194 million in leather and shoes	+194
Total	881
U.S. imported $222 million in leather	−222
U.S. imported $2.22 billion in leather products	−2,220
Total deficit	2,424

Our adverse balance of payments in leather accounts for 8 percent of the total U.S. trade deficit. Selling hides when we import finished products at this rate does not help the balance of trade. Other agricultural products are exported, but do not come back as finished food for resale in the United States at the expense of our workers.

INFLATION

Lower hide prices domestically will not result in higher meat prices. Export prices would not drop—the contrary would occur in fact. Evidence that domestic hide prices would drop is nonexistent. They would stabilize. Why should that increase beef prices?

If we care about inflation, look at inflation in hides: Barry Bosworth; last October, when hides were bringing 58 cents a pound—up 100 percent from 1977—said:

> Prices of hides and skins have exploded during 1978.

What would he say now, when hides are bringing $1 per pound?

This inflationary pressure has a delayed-action impact that will hurt us all.

Hide prices are up 162 percent over the last 18 months, the largest increase has occurred in the last 5 months. Leather prices are also up—111.7 percent from the first quarter of 1978. Finished leather goods prices have shown relatively little of this explosion yet. In fact, the industry has a good inflation record.

But it cannot keep it up at this rate. Shoe prices rose 6.3 percent from 1978 in

the first quarter—compared to a 9.8-percent CPI for the same period.

At wholesale, shoe prices are now rising 17 percent over last year—and that price will be reflected in our retail stores. Leather goods constitute $8 billion annually in consumer purchases. Price increases already in the pipeline may add $2 billion to that. Hide price increases in 1979, which have been much worse, will aggravate inflation in 1980 and 1981.

Bosworth said last October: "Footwear prices could move up sharply later this year." He was right.

As prices go up, competitive restraint on imported items is lessened.

Brazil's exports to the United States are up 13 percent in value from 1978. Romania's are up 7 percent. Korean sales to the United States are up 30 percent. Taiwan's unit value for imports is up 40 percent. Imported shoes have gone up well over 16 percent in value on average.

When our domestic shoe prices go through the roof, what restraint will exist against massive price increases from overseas? None.

Expenditures on shoes in the United States rose 13.7 percent from 1978 and will continue to rise.

Footwear increased its total share of expenditures on the joint clothing/shoes index from 14.96 cents on the dollar to 15.07 cents. This is foretaste of what will come. Shoe industry records show that when prices skyrocket, for example, people buy fewer shoes. They do not switch to nonleather shoes.

Let us look at the employment figures in the United States: 400,000 jobs in tanning and leather industries directly.

Retail sales—105,000 retail stores, depending in part or wholly on leather goods sales.

Layoffs are up over 7.7 percent from last year. Thousands of New Hampshire shoes workers have seen the factory doors swing shut for the last time. Productivity in the footwear industry is good. The industry is trying to recover its vitality. It has registered a productivity gain of 3 percent over last year—at a time when productivity was declining elsewhere in our economy. We should not let an efficient industry collapse at this time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, it is U.S. trade policy to promote exports of agricultural products when supplies are greater than what the American consumer needs or wants, not to deprive him of basic commodities he desires and should be able to buy.

We are not exporting a surplus of hides, but rather the bulk of the hides in this country, over 70 percent, as a matter of fact.

Our domestic industry needs 10 to 20 million hides and they have to get by on 10 million.

Mr. President, no other agricultural commodity is exported as the same high rate, 83 percent in March, April and May of this year. Last fiscal year, 54 percent of soybeans, 55 percent of wheat, 73 percent of rice, 40 percent of cotton, 40 percent of almonds, 35 percent of tobacco, 30 percent of corn; other cattle by products—40 percent of tallow, 16 percent of edible offal.

Mr. President, immediate action is needed to alleviate the crisis that now exists in our leather products industry. I rise to support the Muskie-Baker amendment in an effort to insure that adequate supplies of cattlehides will be available for domestic leather users.

Cattlehides are the principal raw material for the production of leather products. Foreign governments, such as Brazil and Argentina, have refused to export their own cattlehides which in turn has caused a disproportionately high demand for reduced U.S. supplies. In March through May of this year, 83 percent of our U.S. hides were exported, resulting in a price increase of over 150 percent in just over a year. Although the United States has only 15 percent of the world's hide supply, it presently accounts for 75 percent of the hides traded on the world market.

This is not a free market situation. Export restrictions are maintained by the other major cattlehide-producing countries. The U.S. Department of Commerce has stated, that approaches recently made by the Office of the Special Representative for Trade Negotiations to the government of these countries to encourage them to relax their restrictions on hide exports, have proven unsuccessful.

These anticompetitive practices of foreign trading partners are injuring our manufacturers, tanners, retailers, workers, and consumers. Some 400,000 U.S. jobs are threatened by such practices. Without the raw material of cattle hides, factories are going to close up.

In New Hampshire, over 11,000 people are employed in leather products industry. Tanneries are closing. Factories are extending vacations and consolidating plants. Jobs are being lost.

The Muskie-Baker amendment to S. 737 is a fair and equitable way of assuring our domestic industry their fair share of an American raw material. I support this amendment which helps assure U.S. jobs, helps keep down inflation in leather good prices and helps assure the continuation of a viable leather goods industry in the United States.

This is not just a shoe problem. The leather crisis affects over 400,000 workers and every industry using leather—gloves, sportswear, handbags, belts, and furniture.

As long as the rest of the world continues to embargo hide exports and prohibits import of our leather products, the United States must take steps to protect its own workers and consumers.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I reserve the remainder of my time, and ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MUSKIE. Mr. President, I reserve the remainder of my time. I do not have much remaining.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, is one of the Senators seeking recognition

Mr. JEPSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized? Who yields time to the Senator from Iowa?

Mr. HEINZ. I yield to the Senator from Iowa 1 minute on the bill.

Mr. JEPSEN. Mr. President, I join my colleagues, Senators CULVER, PERCY, DOLE, WALLOP, BENTSEN, and others, in opposing this amendment.

I point out that if our Nation seriously wants to reduce our trade deficit, if our Nation truly wants to live up to the years and years of work and the thrust and the goals that will soon be presented in the form of a treaty called the Multilateral Trade Negotiations. In light of all of our efforts, with this new trade agreement and other efforts to develop world trade, I believe we should and must oppose this kind of action that is proposed in this amendment.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. I yield to the Senator from South Dakota.

Mr. PRESSLER. Mr. President, I rise to ask unanimous consent that a letter originated by the National Cattlemen's Association, with great concern about the result of lowering the price of cattle hides, initially by restricting exports, be printed in the RECORD.

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

WASHINGTON, D.C., *June 19, 1979.*

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PRESSLER: We are concerned about an effort to lower the price of cattle hides artificially by restricting exports. We oppose such government interference in the free market which would directly raise beef prices for consumers and would be damaging to the nation's balance of payments.

The full Senate will soon be considering S. 737, the Export Administration Act of 1979. At that time, a floor amendment may be offered to treat the exporting of animal hides differently from the exporting of other agricultural commodities. In its present form, Section 4(i) of S. 737—consistent with current law—prohibits export controls on any agricultural commodity, including animal hides, unless the Secretary of Agriculture approves such controls. The Secretary could not approve controls during any period he determined the supply to exceed the requirements of the domestic economy.

The real purpose of such an amendment to treat hides differently—thus removing the Secretary's veto power—would be to make it easier for the government to impose export controls on them. We think such an amendment is unwise and urge you to oppose it. We also urge you to oppose other legislative or administrative efforts to limit hide exports. Enclosed is a brief Question and Answer paper which explains the issue in more detail and why we oppose export controls on hides.

C. W. McMillan, Vice President, Government Affairs, National Cattlemen's

Association; John G. Mobay, President, National Independent Meat Packers Association; John W. Scott, Master, the National Grange; Richard Lyng, President, American Meat Institute; Roy W. Lennartson, Washington Representative, Western States Meat Packers Association; Charles L. Frazier, Director, Washington Staff, National Farmers Organization.

Mr. PRESSLER. Mr. President, I think the letter speaks for itself. It is also signed by the American Meat Institute representative, the National Independent Meatpackers Association, the National Grange, the Western States Meatpacker Association, the National Farmers Organization, and others.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, I yield myself 30 seconds on the bill.

Mr. President, I rise in strong support of the amendment to the Export Administration Act of 1979, S. 737, offered by the distinguished Senator from Maine (Mr. MUSKIE) and the distinguished Senator from Tennessee (Mr. BAKER) to limit U.S. exports of animal hides and skins to their traditional level until either foreign governments remove their own export controls or adequate supplies are available to domestic users.

My reasons for supporting this amendment are many and varied. The amendment addresses an urgent problem facing the domestic leather industry. It is needed in order to assure domestic users of leather adequate supplies of hides, and American consumers of fair prices for finished leather products.

Although the United States has only 15 percent of the world's supply of cattle hides, it accounts for 75 percent of the hides freely traded in the world. From March through May 1979, 83 percent of our hides were exported, leaving our domestic leather industries with just over half their necessary supply. During this same time period, foreign governments have imposed export restrictions on their own hides, causing export demand to shift to the U.S. market. The United States has now become the only supplier of hides to the world.

The cattle hide export problem affects every consumer in this country. Excessive foreign demand for domestic hides, particularly in Japan and Korea, has caused prices to increase as much as 15 percent in just over a year. If action is not taken immediately, consumers could be forced to pay an additional $2 billion for leather goods within the next year. Even worse, it is possible that leather products may not be available at any price unless American industry is allowed to buy more domestically produced hides.

The price of American hides has more than tripled in the past 17 months. Cattle hide for shoe leather that cost 37 cents a pound in 1977 costs as much as $1 a pound today. This is the largest inflationary increase of any primary raw material produced in our economy. American consumers cannot afford price increases of this magnitude.

More than 500,000 workers are affected by the current leather crisis. Indirectly, an additional 600,000 work in jobs serving industries which use leather. Many of these jobs will be lost if an adequate supply of hides is not readily available for domestic users, or if price increases make these U.S. industries uncompetitive.

I believe it is important to emphasize that export controls on hides will not damage our balance of payments. Hide exports account for only one two-hundredth of the total value of U.S. exports. The balance-of-payments problems result from the fact that the United States is not permitted to export its finished leather goods to foreign markets. Hide exports frequently return to the United States as higher value, finished products. In 1978, the deficit in the leather and leather products industry was almost $2.5 billion, 10 percent of the total U.S. trade deficit.

In addition, Mr. President, I think we ought to keep in mind the international implications of this situation.

Far from being a protectionist action, export controls are not designed to keep anything out; and if applied equitably, are not violative of the GATT. As I indicated we have 15 percent of the world's supply but are supplying 75 percent of the freely traded hides. This is not an equitable marketing situation, and it cannot truthfully be said we have a free market in hides.

Under these circumstances, it is imperative that we take the action necessary to insure adequate domestic supplies while at the same time are trying to rectify this situation internationally by persuading the hide producers to export.

It is a travesty that American consumers may soon be unable to afford or even obtain leather products, despite the fact that the United States is the world's major producer of cattle hides. As long as the rest of the world continues to embargo hide exports and prohibit importation of our leather goods, the United States must take action to protect its own workers and consumers. It is my hope that my fellow Senators will join me in supporting this much needed amendment to moderate the number of exported hides, and I urge its immediate adoption.

Mr. MUSKIE. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Maine has 59 seconds remaining.

Mr. MUSKIE. Mr. President, I simply wish to make two brief points.

No. 1, hides constitute, according to the best information that I have, 7 to 8 percent of the profit or price of beef cattle. Leather constitutes from 20 to 45 percent of finished product value.

What we are asking for here is a reasonable and equitable sharing of the economic prospects of this country.

The beef industry is not in trouble at the present time. If it is, then I do not know what prices have to soar to. I do not buy beef as often as I used to because of the price.

And here these representatives from beef States tell me that this amendment is going to damage the beef industry. The fact is, Mr. President, that the shoe industry is in deep trouble and it is in deep trouble on two fronts. One, because the shortage of raw material is closing down tanneries and closing down shoe industries. Two, because our leather hides are being converted by competition abroad into manufactured leather goods that come into this country at lower prices than our own, and undercutting our own people.

For Heaven's sake, I am for a healthy beef industry. But does that require that we deal a death blow to another important American industry? How greedy can you get? Beef prices are up, profits are up. My good friend from Oklahoma, Senator BELLMON, tells me constantly in the Budget Committee that farmers are making money this year. And here we have New England losing jobs because of this. We have a modest amendment, and I urge my colleagues to vote for it.

The PRESIDING OFFICER. The Senator's time has expired

Mr. MUSKIE. Time is up.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON Mr. President, I oppose this amendment. It is apparent from this debate that what is good for the leather industry is not good for the livestock producers.

I opt for exports, against Government regulation and for efforts to enhance the productivity and the competitiveness of the leather industry.

Mr. MUSKIE. Mr President, will the Senator yield on that point? How can you get more productivity if you cannot get the raw material? Has the Senator got an answer for that?

Mr. STEVENSON The raw material in this case, Mr. President, is substantially in excess of domestic supply. There is no shortage of raw material. It is the price.

Mr. MUSKIE. Price is no problem. There is a shortage of hides in this country that is less than half of the domestic requirements. The facts speak for themselves.

The Senator can choose to ignore those facts. The price has gone up, and our people are paying for it, but they are shipping abroad and the Japanese are speculating the price upward, and that speculation is attracting the hides and taking them away from our market.

Mr. STEVENSON. Mr. President, if what the Senator says is a fact—and I deny that it is a fact—then controls are available under existing authority and without this amendment.

With that I am prepared to yield back our time.

Mr. ROBERT C. BYRD. Mr. President, I am pleased to cosponsor the pending amendment introduced by my distinguished colleague, Mr. MUSKIE.

The American leather goods industry is facing a monumental crisis. It is faced by a rapid rise in the price of domestic leather hides—over 160 percent since December 1977—which threatens its very ability to compete with exports.

The leather goods and tanning industries in West Virginia and the other

States are hard-pressed to pay the higher prices for hides which, I might add, will eventually be passed on to the American consumer in the form of higher prices for shoes and other leather products.

What is the cause of these higher prices? There is an artifically created shortage of hides on the international market because major hides producers, including Uruguay, Brazil, and Argentina, are embargoing the shipment of hides produced in their countries in order to protect their own leather goods industries.

The net result is that U.S. hides, which represent only 15 percent of world production, account for 75 percent of the world hides trade. And the prices of U.S. hides are going sky high.

This is clear and simply an unfair trade situation. The amendment before us is the appropriate remedy.

It conditions free exports of U.S. hides on one of two factors:

First. Reasonable export levels from hide producing countries, and

Second. An adequate domestic supply, taking into account export demands.

Mr. President, I support the expansion of international trade—international trade that is fair. This amendment confronts a trade situation that is blatantly unfair.

● Mr. NELSON. Mr. President, I rise in support of the Muskie-Baker amendment to S. 737, the Export Administration Act.

In the United States today there is a trade deficit in the hide, leather, and leather products sector of our economy of $2.5 billion. This dollar figure is even more startling when we consider that this $2.5 billion represents nearly 9 percent of the total U.S. trade deficit for 1978. With the exception of textiles, it is the largest trade deficit for any industry sector.

The trade deficit is only a small part of the story. Hidden behind this deficit are about 300,000 jobs nationwide as well as the possible demise of many tanning and leather manufacturing companies. In the last 10 years, the number of tanners nationwide has decreased from nearly 500 to approximately 250 today.

The problem that confronts the Senate today is whether our leather products industry needs to be protected from unfair foreign export restrictions. I believe it does.

In 1971, the Governments of Argentina and Brazil and, subsequently, most of the countries of South America, Africa, and Asia banned the export of hides. As a result, the United States has become the only country that has a large supply of cattlehides and calfskins and allows unlimited foreign access to this supply. At the same time, major foreign markets for leather and leather products are closed to U.S. producers because of high, restrictive quotas on imports of leather products or, as in the case of Korea, Mexico, and Spain, total restrictions on leather imports.

The United States has only 15 percent of the world's hide supply, yet it accounts for almost 75 percent of the hides freely traded on the world market. Clearly, the interests of U.S. consumers, workers, and industries should not be sacrificed to the anticompetitive practices of our foreign trading partners.

The restrictions on access to foreign raw materials and foreign markets has led to the existing crisis for the U.S. tanning and leather industries:

In 1975, hide exports were less than 50 percent of total commercial slaughter in the United States;

In 1977, hide exports were over 56 percent of commercial slaughter;

In 1978, hide exports were 62 percent; and

In 1979, indications are that with slaughter declining to 37 million head or less, exports will amount to 68 percent or more of commercial slaughter.

If our leather products industry is to remain strong, competitive, and a viable sector of our economy, domestic exports of cattlehides and calfskins must be limited to 50 percent of total U.S. hide supply.

The Muskie-Baker amendment to S. 737 could accomplish this goal by limiting U.S. exports to reasonable historical levels until adequate supplies are available to domestic users or foreign governments remove their own export controls.

I urge Senate passage of this amendment.●

COWHIDES

● Mr. BAUCUS. Mr. President, I rise to oppose an amendment that may result in an export embargo on cowhides.

Leather industry representatives have lobbied hard for this amendment. I don't deny that the leather industry has problems. Nevertheless, a nexport embargo is not the way to deal with these problems.

Wednesday, I submitted for the record a statement explaining my opposition to the cowhide embargo. I would like to make just a few additional comments at this time.

First, there is not a shortage of American cowhides. The United States will produce 34 million hides this year. The domestic demand is 18 million hides.

So there is not a shortage—the domestic industry is just unwilling or unable to pay world prices.

Second, cowhide prices have been going down. They reached a peak of $94 per hundred pounds on April 19. Thus, the price of $1 per pound that leather industry representatives quoted was only temporary.

Representatives from agricultural regions will remember disruptions caused by President Nixon's embargoes on wheat and soybean exports in 1974. These embargoes not only drove down farm prices and income, but they did lasting damage to our trade relationships.

It would be just as serious a mistake to impose an embargo on cowhide exports. I would strongly urge my colleagues to oppose this amendment.●

● Mr. ROTH. Mr. President, I am cosponsoring the proposed Baker-Muskie amendment to the Export Administration Act, because it is fair in terms of other countries' practices in world trade in hides and because it will help deal with some of the real problems of the 400,000 men and women employed in the leather goods industry.

The United States is the producer of just 15 percent of the world's hides, yet is the supplier of some 75 percent of all hides involved in world trade. This is largely because other major producing countries, such as Brazil and Argentina, restrict export of their hides, thus putting an undue burden on American supplies.

The United States attempted to get international agreement on the principles that ought to be followed in access to supplies during the recent Geneva trade negotiations. Other countries, however, were unwilling to agree to reasonable principles. Consequently, we should feel free to take reasonable steps, such as proposed here, to protect the interests of our Nation. Forceful U.S. action to protect our interests, in fact, can only help in continuing U.S. efforts to negotiate general international principles governing supply access.

In addition to the fact that other cattlehide producing countries restrict export of their hides, Japan, a major buyer of hides, will not allow the United States to sell them finished leather products. This double whammy in the trade areas causes our industry major economic problems.

Others will describe the economic effects of this unfortunate situation in terms of employment and increased prices for the consumer. Our only recourse, however, is to hold a sufficient supply of hides in the United States so we can produce some finished goods, also. This will not only help our industry economically, but will aid in dealing with the fair trade practices now faced by our industry.

For these reasons, I support this amendment.●

Mr. LEAHY. Mr. President, I rise today to speak in support of the amendment sponsored by the Senators from Maine and Tennessee, and to say that I am happy to be a cosponsor of this most critical amendment.

I had planned to be in Vermont today, but I canceled those plans so that I could be here to promote this amendment.

The current crisis facing the leather products industry in this country not only threatens the jobs of some 400,000 American workers, but also stands to add upward of $2 billion to the prices Americans will pay for leather goods next year.

Mr. President, I am a strong proponent of free world trade, but trade relationships must be based on reciprocity, and the current trade patterns in hides are far from reciprocal.

At a time when world hide production is at a low, other hide producing nations have not responded by limiting their hide imports or increasing their exports. In fact, they have done just the opposite.

The world's major hide-producing nations, Argentina and Brazil, have embargoed all hide exports to protect their domestic industries. As a result, U.S. hides, which constitute 15 percent of world hide production, comprise a full 75 percent of world trade in hides.

To meet the increased world demand for hides, the share of U.S. hide production devoted to exports has risen from a historical level of 50 percent to an alarming 83 percent. Domestic users are getting just 17 percent of U.S. production. They need more than twice that amount. They are literally being chocked out of business.

This Government cannot sit back and do nothing about this outrageous situation.

We cannot turn our backs on 400,000 domestic leather manufacturers and retailers.

We cannot acquiesce to 25-percent increases in the prices of leather goods to consumers.

We cannot allow a clearly unjust trade relationship to continue unchallenged.

I am, therefore, pleased to support this amendment which will appropriately restrict U.S. exports of hides unless domestic supplies are adequate, or the export levels from other hide producing nations are more reasonable.

I urge my colleagues to support this amendment, and thus afford our domestic leather products industry and the American consumers the protection which they deserve.

Mr. MUSKIE. I do not have any more time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

Mr. STEVENSON. The yeas and nays have been ordered, Mr. President.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NUNN (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK) would vote "nay."

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. CHILES). The Senate will be in order. The clerk will suspend the call of the roll until order is restored.

The clerk may proceed.

The call of the roll was resumed.

Mr. DOLE. Regular order, Mr. President. Regular order.

The PRESIDING OFFICER. Have all Senators who wish to be recorded voted?

The result was announced—yeas 38, nays 46, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—38

Baker	Humphrey	Pryor
Bradley	Javits	Randolph
Bumpers	Kennedy	Riegle
Byrd, Robert C.	Leahy	Roth
Chafee	Levin	Sarbanes
Cranston	Magnuson	Sasser
Durkin	Mathias	Schweiker
Eagleton	Metzenbaum	Stafford
Glenn	Moynihan	Thurmond
Heinz	Muskie	Tsongas
Helms	Nelson	Warner
Hollings	Pell	Williams
Huddleston	Proxmire	

NAYS—46

Armstrong	Dole	McClure
Baucus	Domenici	McGovern
Bayh	Garn	Melcher
Bellmon	Goldwater	Packwood
Bentsen	Hatch	Percy
Boren	Hatfield	Pressler
Boschwitz	Hayakawa	Schmitt
Byrd, Harry F., Jr.	Inouye	Simpson
Cannon	Jackson	Stennis
Chiles	Jepsen	Stevens
Church	Johnston	Stevenson
Cochran	Kassebaum	Stewart
Culver	Laxalt	Stone
Danforth	Long	Wallop
DeConcini	Lugar	Zorinsky
	Matsunaga	

ANSWERED "PRESENT"—1

Nunn

NOT VOTING—15

Biden	Ford	Ribicoff
Burdick	Gravel	Talmadge
Cohen	Hart	Tower
Durenberger	Heflin	Weicker
Exon	Morgan	Young

So Mr. MUSKIE's amendment (No. 353) was rejected.

(Later the following occurred:)

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that my vote on the last amendment be changed from "yea" to "nay." I do not believe it will change the result of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 427

(Purpose: To permit the export of defense articles and services which have a nonlethal design and which are to be used in furtherance of the safety and well-being of the civilian population)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 427.

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

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

The amendment is as follows:

On page 82, between lines 20 and 21, insert the following:

"(q) Notwithstanding any other provision of law, the export to a country, other than a country referred to in section 620(f) of the Foreign Assistance Act of 1961, of defense articles or defense services which have no direct lethal mission design and which are to be used in furtherance of the safety and well-being of the civilian population of the country to which the items are being exported, shall not be prohibited unless the President determines and reports promptly to the Congress that such criteria of nonlethality and usage are not met.".

Mr. HELMS. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. Will Senators please take their conversations to the cloakroom? Maybe the Chair should observe that the Sergeant at Arms is sitting at the right hand of the Chair and ready to go into action if necessary. (Laughter.)

Will the Senate please be in order?

Mr. HELMS. Mr. President, I will be relatively brief.

This amendment will modify current legislative restrictions on the sale to non-Communist countries of so-called defense articles and services so as to allow the sale of those articles which are now on the U.S. munitions list but which have no direct lethal mission design, which have a nonlethal application and which are to be used in furtherance of the safety and well-being of the civilian population.

All industries and unions in the United States who are involved in the production and export of medium and high technology products—particularly the electronics, general aviation, commercial aviation, heavy electrical, and specialized computer industries, will be positively affected by this amendment. It will provide additional jobs and the U.S. balance of trade will benefit, thus reducing inflation and strengthening the dollar in the international marketplace.

Currently, section 38, Arms Export Control Act (AECA), authorizes the President to control the export of "defense articles and defense services," and to designate those items which are to be controlled. The items so designated constitute the U.S. munitions list.

However, the U.S. munitions list controls many items other than weapons and implements of war. These include such items as trucks, transport, and general purpose aircraft and helicopters, oxygen masks, propulsion units and engines, parachutes, navigational systems, training equipment, cameras, and protective clothing. Thus, the sale of these articles is strictly controlled and, in some cases, prohibited.

Congress has previously acted to remove many of these articles from such stringent control. Section 27 of the International Security Assistance Act of 1977 directed the President to "undertake a review of all regulations relating to arms control for the purpose of defining and categorizing lethal and nonlethal products and establishing the appropriate level of control for each category."

However, the administration failed to comply. In the absence of any indication that such a review had been accomplished, section 25 of the International Security Assistance Act of 1978 further directed the President, within 120 days after enactment, to report in writing to the Congress the results of the review which was supposed to have been conducted the previous year.

The administration report was presented to the Congress on January 26, 1978. After this lengthy review, the administration concluded:

It would be extremely difficult to formulate a useful definition of "lethality" or "lethal impact" for control purposes. Such a definition would offer no basis for any substantial revision in the level or type of export control currently accorded defense articles and defense services on the U.S. Munitions List.

A recent Library of Congress study reached conclusions somewhat different from that of the Administration. The CRS study concluded:

The use of the concept of lethality as a key ingredient in export regulations is reasonable * * *.

This amendment, therefore, is needed in order to move a reluctant executive branch down a road that the Congress has previously laid out. Most U.S. sales of "defense articles and defense services" do not involve weapons, ammunition, implements of war, lethal, or wound-inflicting articles. Of stated sales agreements for U.S. defense articles and equipment, only some 40 percent in recent years has consisted of arms and ammunition; the remaining 60 percent was comprised of spare parts, supporting equipment, and supporting services.

Supporting equipment includes training and cargo aircraft, tankers, tugs, barges, trucks, trailers, radar, communications equipment, and other equipment and supplies. Supporting services include construction, supply operations, training, technical, and administrative services. It seems obvious that most U.S. foreign military sales have not actually involved "arms" in the strictest sense, although the ancillary supplies and services may contribute to the military capabilities of buyers.

These nonweapons articles whose sale is controlled or prohibited by the United States are easily obtainable elsewhere.

Thus, these U.S. restrictions on the sale of "defense articles and defense services" lead to ludicrous decisions.

For example, cargo helicopters and general purpose aircraft are on the U.S. munitions list and are thus controlled or even prohibited from export to certain countries. These articles, to include spare parts and maintenance service for previously sold systems, often cannot be exported.

But these products are easily obtained from other countries. When the United States controls or denies these exports, other nations in their own self-interest must seek other sources of supply or must develop their own indigenous industries to assure future supplies.

These controls accomplish little except that U.S. business loses important export markets, and American labor loses jobs. America can no longer influence the behavior of other nations by economic retaliation. Our preeminent position in the world economy has eroded. Our once substantial lead in technology has been overtaken in many significant areas. In many areas of medium and high technology, foreign competitors from Europe, Japan, and even some developing countries export goods that approach or surpass the best American designs.

In this climate, using export embargoes to achieve political goals is a policy that can boomerang. In most cases, countries denied U.S. goods can easily find them elsewhere. If we use economic boycotts as a political tool, we cannot complain when others use this action against us or our close friends.

Thus, our restirction of nonarms exports damages only American workers and the American balance of payments. Increasingly, the other side of the trade coin becomes important. America needs the benefits of trade, the exports needed to sustain U.S. employment and to pay for our imports of machinery, manufactured goods, and oil. The only way open to us to influence other nations through trade without harming American workers is to ban imports to the United States, the world's largest consumer market, of offending nations.

By voluntarily limiting or eliminating our own nonmilitary export markets, America's overseas economic and political power is weakened. In the short run, the U.S. trade balance suffers, and the value of the dollar drops; this undermines confidence abroad in America's economic vitality. In the long run, the U.S. competitive position permanently deteriorates from a willful sacrifice of markets. Paradoxically, the more the United States seeks to use the levers of trade to achieve political results, the more it may weaken its economic and political power.

This unnecessary restriction on American nonmilitary exports should be removed and that is the purpose of this amendment. I urge its adoption.

I reserve the remainder of my time.

Mr. JACKSON. Will the Senator yield?

Mr. HELMS. Gladly.

Mr. JACKSON. Mr. President, I have not had an opportunity to read the Senator's amendment, but he refers to nonlethal systems. I make a point of caution here that nonlethal systems would include, for example, sending sophisticated commercial guidance systems on a commercial basis. That would be a matter of great concern.

I do not disagree with what the Senator is trying to do, but I think it might be helpful if we could take a look at the amendment to make sure that we are not sending out highly sophisticated technology.

Mr. HELMS. I agree with the Senator absolutely. Why do we not consult for a few moments? I agree with him, I say again, about the export of sophisticated technology.

Mr. JACKSON. I know that, and I appreciate that fact. I am wondering if I can suggest the absence of a quorum while we take a look at the matter.

Mr. HELMS. Let's do that.

Mr. JACKSON. Mr President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. HELMS. Mr. President, I ask unanimous consent that we have a brief quorum, with the time to be charged to nobody. I assure Senators we shall not take much time.

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

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HELMS. Mr. President, I ask unanimous consent that I be permitted to lay aside this amendment temporarily so the distinguished Senator from Colorado may call up his amendment, at the conclusion of which another quorum call will be instituted on the basis that the Senator from North Carolina suggested a while ago.

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

UP AMENDMENT NO. 428

(Purpose: To assure the submission on a confidential basis of information relevant to the authority under section 7)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 428.

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

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

The amendment is as follows:

On page 95, between lines 5 and 6, insert the following:

"(h) Nothing contained in this section shall be construed to preclude submission on a confidential basis to the Secretary of Commerce of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, nor consideration of such information by the Secretary in reaching decisions required under this section. The provisions of this subsection are not intended to change the applicability of section 552(b) of title 5, United States Code.".

Mr. ARMSTRONG. Mr. President, under section 7 of the bill—

Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes any material or com-

modity may transmit a written petition to the Secretary of Commerce requesting the imposition of export controls, or the monitoring of exports, or both, with respect to such material or commodity.

And a procedure is established for doing so. The purpose of my amendment is to make it clear that, in addition to the hearings and other public submissions, it would be in order for such a person or firm or organization to provide such information on a confidential basis to the Secretary, for the Secretary to receive that information and take it into account, and, nonetheless, to keep it on a confidential basis.

Obviously, what we are addressing here are those things which are proprietary in nature an which ought to be, in fairness, protected for the individuals and firms concerned. I urge the approval of the amendment.

Mr STEVENSON. Mr. President, I have discussed this with the cosponsors. This amendment clarifies the intent of the law. It is a useful amendment. We are happy to accept it.

I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back? All time having been yielded back, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 427

Mr. HELMS. Mr. President, I yield to the distinguished Senator from Kansas such time as she may require.

Mrs. KASSEBAUM. Mr. President, I have been very supportive of what Senator HELMS was trying to address in exempting nonlethal systems. After discussing this with the distinguished Senator from Washington, I think we do feel that, in the version that has been passed by the House, this has been sufficiently taken care of. It is my concern—and I hate to speak from parochial interests, but Beech and Cessna and Boeing and Gates and General are all in Kansas and have recently suffered some setbacks in sales because they have not been able to do the proper negotiating. I think if there can be these exemptions made for small aircraft which is used for training purposes and so forth, I would feel this has been taken care of.

Mr. HELMS. I thank the distinguished Senator. This is the point I wanted to clear up with my friend from Washington.

Mr. JACKSON. Mr. President, I concur in the comments made by the distinguished Senator from Kansas. I should say that the language in the bill reported by the House committee dealing with this matter addresses the subject properly. It is my understanding that the House committee language permits export of what the Senator has in mind to friendly countries so that there is not any problem.

The problem here is the danger of highly sophisticated systems, inertial navigation systems, for example, going to the Soviet Union. The language in the House bill, I do believe, takes care of the point that the Senator from North Carolina has endeavored to make as sponsor of the amendment and the point made by the distinguished Senator from Kansas. So I hope that the Senator will see fit to withdraw the amendment in light of this colloquy.

Mr. HELMS. I intend to do so in just a moment, Mr. President. I want to underscore that I agree with my friend from Washington with reference to the export of sophisticated computer technology directly or indirectly to the Soviet Union. A couple of years ago, I voted against this piece of legislation—I was the only Senator who did so—because I saw in that bill some loopholes which alarmed me considerably concerning the potential export of sophisticated technology to the Soviet Union. I know that the Senator from Washington has long-held similar apprehensions.

Let me be sure that I understand not only the Senator from Washington but the professional staff members who have worked on this legislation. The provisions already in the House bill will permit the export of nonlethal items to such Latin American countries such as Chile, who wants to be our friends, is that right?

Mr. JACKSON. I am sorry. I did not hear the Senator's question.

Mr. HELMS. The House provision to which the Senator alluded a moment ago would permit nonlethal exports to, say, Latin American countries such as Chile, who want friendly relations with the United States?

Mr. JACKSON. That is correct, friendly countries.

Mr. HELMS. Chile is one of those. Chile is trying to move in a direction to pacify her critics in this country, some of whom are highly selective, to say the least, in their human rights assessments. This Senator has seen no point in our failing to encourage Chile in that regard. In fact, there is an element of folly in it.

So with the assurance that there is agreement in the Senate that we will have an open mind about all friendly countries in terms of nonlethal exports, and with the opinion of the able Senator from Washington, which I share, that the House bill provision does, indeed, make that clear, if properly interpreted by the executive branch, I am inclined to withdraw the amendment.

Mr. JACKSON. Just for the record, so we complete it, the House bill, on page 47, section 111, covers this. The title is "Civil Aircraft Equipment." And I think we can print that at this point in the RECORD.

Mr. HELMS. I ask unanimous consent that it be printed.

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

CIVIL AIRCRAFT EQUIPMENT

SEC. 111. Notwithstanding any other provision of law, any product (1) which is standard equipment, certified by the Federal Aviation Administration, in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under the Export Administration Act of 1969. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act. For purposes of this section, the term "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

Mr. JACKSON. I thank the Senator.

Mr. HELMS. I thank my friend from Washington.

With those assurances and with that understanding, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 348, AS MODIFIED

(Purpose: To specify the obligation of government departments and agencies to share foreign availability information)

Mr. JACKSON. Mr. President, I call up my amendment No. 348.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself and Messrs. NUNN, HOLLINGS, COHEN, HATCH, HARRY F. BYRD, JR., TOWER, MOYNIHAN, THURMOND, BAYH and DOMENICI, proposes an amendment No. 348.

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

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

The amendment is as follows:

On page 64, line 7, after the period, insert the following: "Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, shall furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration and such Office shall furnish the information it gathers and receives to such departments and agencies.".

Mr. JACKSON. Mr. President, I have conferred with the majority and minority on this and wish to modify the amendment, which I send to the desk and ask the clerk to state the modification.

The PRESIDING OFFICER. The modification will be stated.

The assistant legislative clerk read as follows:

The amendment, as modified, is as follows:

On page 64, line 7, after the period, insert the following: "Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, consistent with the protection of intelligence sources and methods, shall furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration and such Office when requested or where appropriate shall furnish the information it gathers and receives to such departments and agencies.".

Mr. JACKSON. Mr. President, this is the Bayh amendment to the amendment that I proposed and, to avoid voting on each one, we made my amendment conform to his.

But it is the amendment that the Senator recommended and it is really his amendment.

Mr. BAYH. Mr. President, I just want to say to my colleagues, I compliment the Senator from Washington for introducing this amendment.

I had intended to have a similar amendment myself and I think the way he has handled it is consistent with trying to move the legislation along.

Mr. President, I ask: Was the word "protection" or "protector"? It should be "protection."

Mr. JACKSON. This is "protection."

Mr. BAYH. Good. I thought it came out "protector," and "protection" is the word.

I thank the Senator from Washington.

Mr. JACKSON. I want to thank the distinguished Senator from Indiana for his most helpful suggestion.

He is chairman of the Senate Intelligence Committee and, in that capacity, of course, is keenly aware of the importance of his responsibilities, and the Bayh amendment makes the amendment that much more effective.

Mr. President, this amendment is intended to make it clear that the various departments and agencies involved in the export control process have an obligation to furnish foreign availability information to the Office of Export Administration and that OEA, in turn, is obligated to make it available to those departments and agencies. OEA's role should be viewed primarily as one of coordination of the existing efforts by departments and agencies to avoid duplication and to assure that information is shared. The provisions of the bill and amendment relative to OEA's foreign availability functions should not be considered as an authorization by departments and agencies to reduce present efforts, unless they are determined to be duplicative.

Indeed, the GAO found there is too frequently inadequate foreign availability information and that foreign availability determinations go unattended. Thus, there is a need for more, not less, of an effort to obtain foreign availability information, especially by our intelligence agencies. Obviously, OEA is not capable of performing intelligence gathering functions. Also, other departments and agencies, including DOD, which have important export control functions must continue to make independent assessments of foreign availability and to marshall foreign availability data that they obtain in their research and development, intelligence, and other activities.

Thus, the intent of the Senate should be clear that the foreign availability functions of OEA shall be deemed to be primarily those of a coordinator and should not be deemed to authorize reduced functions by other agencies except to the extent to avoid unnecessary duplication.

● Mr. KENNEDY. Mr. President, I rise in opposition to the amendments offered by my dear friend and colleague from the State of Washington. These amendments could in fact undermine U.S. security by imposing unnecessary controls on critical goods and technologies to the detriment of U.S. exports.

Adoption of these amendments will be a step back from the progress this bill has made in removing unnecessary restrictions on U.S. exports. These amendments will not only reduce the competitiveness of U.S. high technology exports, but could also have a negative impact on U.S. employment and technological innovation.

One amendment seeks to transfer primary responsibility for identifying goods and technologies controlled for national security purposes from the Department of Commerce to the Department of Defense. Such action is unnecessary and could serve to weaken the export control system. The current system, in which the Commerce Department holds coordinating authority, is much more effective. The Commerce Department is in a superior position to possess knowledge on the products U.S. industry produces and, more importantly, what the technical capabilities of those products are.

Another proposed amendment could lead to the disintegration of COCOM. Threatening our allies with trade boycotts if they refuse to adopt U.S. export control standards is clearly not the course which responsible U.S. diplomacy should follow. The breakdown of COCOM would lead to decreased control over critical goods and technologies, create unnecessary friction in U.S. relations with our closest allies and friends, place U.S. technology exports at a disadvantage, and certainly damage United State security interests.

The fact is that in today's international economy the United States is no longer in a position to unilaterally impose effective controls on technology exports. I therefore believe we must rely on close coordination with our allies to maintain effective export controls in those areas where they continue to be needed. Only when effective multilateral coordination takes place can both the security and the legitimate export interests of the United States and our allies be productive.

Mr. President, this bill accomplishes the difficult task of assuring that effective controls of goods and technologies important to U.S. security are maintained while, at the same time, streamlining the bureaucratic process which U.S. firms must undergo before they can export abroad. The bottom line is an increase in U.S. exports, employment, and technological innovation while assuring that U.S. national security interests are not sacrificed. The Jackson amendments would greatly undermine these benefits. I urge my colleagues to join me in opposing these amendments and in supporting the bill as reported by the committee.●

Mr. HATCH. Mr. President, I was pleased to sponsor the package of amendments with the distinguished Senator from Washington. As we debated each one, we see the many-faceted issue of technology transfer. This problem is one that I myself have been following for quite some time and one that concerns me a great deal. I compliment the committee for their work on the bill, but I would like to point up during the course of this debate some of the major flaws in our system which would continue to exist even after its enactment.

DEFENSE DEPARTMENT IDENTIFICATION

Mr. President, the bill provides us with the start of a "critical technologies approach" to controlling exports to certain nations for national security purposes. It does not, however, fully outline the plan or the processes involved in this approach, nor does it make us aware of the advantages to adopting it.

The measure presently vests the responsibility to determine critical technologies with the Commerce Department and the Defense Department with an advisory role. It would seem to me that the effectiveness of a critical technologies approach would be greatly enhanced if the Defense Department was delegated the duty to identify those technologies which were critical to our national security in the first instance.

The Defense Department currently has the capacity for making these determinations both in terms of interpreting the sophistication of various technologies, and knowing the impact of exportation of critical technology on United States and foreign military systems. Valuable time could be saved were DOD given the authority to identify these technologies in the first place instead of having their input on a secondary referral basis. We would recognize the identifications process as a technical function rather than an administrative one. Further, exporters would have the advantage of knowing precisely which technologies were listed in the militarily critical category prior to making a license application to the Commerce Department. This seems to me to be a key ingredient in streamlining our export licensing procedure.

EMBARGO OF CRITICAL TECHNOLOGIES

Mr. President, for the small percentage of applications which propose a transfer of critical military technology to a controlled nation, S. 737 makes no clear policy statement. All of these applications are reviewed individually as to their national security implications, a process which leaves the door wide open for inconsistency and political favoritism. One amendment rightfully recommends a general embargo of critical technologies to controlled nations, and I support this policy as a means to guarantee both our security and our fairness in granting licenses. It makes good sense that we should grant licenses based on policy, not have policy made on a case-by-case basis.

FOREIGN AVAILABILTY

Mr. President, from what we have heard, the core of the argument in favor of a liberalized export policy is the assumption that our goods and technologies are available in the same quantities and qualities from foreign countries. We assume that if the United States does not permit the export of a technology or good that another nation will, causing

American business a loss of sales and credibility in the foreign marketplace. This is a situation with which we are all concerned, and I am most sympathetic to the objective here, that is, to enhance the ability of American suppliers to compete in foreign markets. However, many sources have testified that there is no accurate data on the foreign availability of critical technologies. We simply do not know for sure that a controlled nation could buy comparable technologies elsewhere.

I maintain that our undocumented assumptions are insufficient on which to base export policy affecting our national security. Another amendment which I feel is fair, calls for the establishment of an evidentiary test of foreign availability on a given critical technology to assist in the decisionmaking process. To export or not to export is a question which demands all the information possible to render a correct answer.

INDEXING

Mr. President, I join my colleagues in opposing the present provision of technology indexing. I believe that this provision would have two adverse effects. What the present language suggests is automatic export decontrol for any technology or good which cannot keep pace with accelerated performance standards established by the Department of Commerce.

First, we must guard against the false assumption that because American technology has advanced that our old technology is expendable. In many cases, our out dated knowhow is still superior to that of a controlled nation, and we should not permit the automatic export of such a technology or good without a reapplication for licensing. Such a proposed technology transfer should be reevaluated with the new information taken into account.

Second, I am concerned about the effect such a provision would have on U.S. industry incentives to develop new technologies. If this system of performance levels is implemented, I am afraid that it could retard our industrial research and innovation activity since under this new aspect of export policy, it may be to industry's advantage in some circumstances to allow technologies to become outmoded in terms in our potential technological capability in order to avoid the export administration process. We should be careful not to overlook the inherent effects export policy will have on our own domestic R. & D. policies.

CONCLUSION

Our export process can be improved to incorporate maximum trade opportunity for American business, efficient procedures for the monitoring of licenses and controls, and protection for our critical technologies. We recognize all of these needs, but I believe greater emphasis should be given to the defense and national security ramifications of technology transfer. Once technology has been sold it can never be returned. It is the knowhow which will assist foreign nations in producing their own goods and limit the markets for U.S. product exports in the future, the knowhow which will fill in the gaps in our enemies' defense systems.

I have enthusiastically supported these amendments and feel they are constructive to achieving these objectives.

Mr. STEVENSON. Mr. President, this is a sound amendment. I am prepared to accept it and yield back our time.

Mr. HEINZ. The minority is prepared to accept the amendment and yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 348, as modified) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 349

(Purpose: To provide specific authorization for appropriations to the Department of Defense to carry out functions under the Act)

Mr. JACKSON. Mr. President, I call up amendment No. 349.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself and Messrs. NUNN, HOLLINGS, COHEN, HATCH, HARRY F. BYRD, JR., TOWER, MOYNIHAN, THURMOND, BAYH, and DOMENICI, proposes an amendment numbered 349.

Mr. JACKSON. Mr. President, I ask unanimous consent that further readings of the amendment be dispensed with.

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

The amendment is as follows:

On page 111, between lines 11 and 12, insert the following:

(c) There are authorized to be appropriated to the Department of Defense for fiscal years commencing on or after October 1, 1979, such sums as may be necessary for the Secretary of Defense to carry out his functions under this Act.

Mr. JACKSON. Mr. President, this amendment would provide a specific authorization for appropriations to the Department of Defense to carry out its functions under the act. At present DOD's export control activities are not adequately funded. A major part of the problem is that DOD does not have a specific line item in its budget for this activity. Thus, personnel and funds must be borrowed from other activities. As a consequence, the manpower and financial resources devoted to DOD's export control efforts are grossly inadequate given the imortance of this work. This is one important reason for the fact that DOD's undertaking to identify critical goods and technologies is far from completed even though it has been over 3 years since the Defense Science Board recommended this concept.

UP AMENDMENT NO. 429

(Purpose: To authorize an appropriation to the Defense Department for the purpose of identifying militarily critical goods and technology)

Mr. STEVENSON. Mr. President, I send an amendment in the nature of a substitute to the desk and ask for its consideration.

The PRESIDING OFFICER. Is the Senator asking unanimous consent that this be in order in spite of the fact that time has not been yielded back?

Mr. STEVENSON. I so request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 429.

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

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

The amendment follows:

On page 111, line 11, insert after subsection (b), the following new subsection (c):

"There are authorized to be appropriated to the Department of Defense $2,500,000 for fiscal year 1980 to carry out its functions under subsection 4(a) of this Act."

Mr. STEVENSON. Mr. President, the amendment offered by the Senator and this substitute both recognize that the Department of Defense's duties under this bill will require an expenditure of funds.

This amendment would, therefore, authorize appropriations to the Department for purposes of carrying out its duties under the Export Administration Act for fiscal year 1980 in the amount of $2.5 million.

I think that is a reasonable amount. I am hopeful the Senator from Washington will accept the amendment.

Mr. JACKSON. Mr. President, I am pleased to accept the amendment and prepared to yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the second degree.

The amendment (UP No. 429) was agreed to.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STEVENSON. Yes.

Mr. JACKSON. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 349) was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 350

(Purpose: To provide for the maintenance of records of license and control)

Mr. JACKSON. Mr. President, I call up amendment No. 350.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself and Messrs. NUNN, HOLLINGS, COHEN, HATCH, HARRY F. BYRD, JR., TOWER, and MOYNIHAN, proposes an amendment numbered 350:

On page 73, strike out lines 12 through 15 and insert in lieu thereof the following:

(9) The Secretary of Commerce, the Secretary of Defense, and any department or agency consulted in connection with a license application or a revision of a list of controlled goods and technologies and applicable controls shall make and keep accurate records of their respective advice, recommendations, or decisions, including the factual and analytical basis of such advice, recommendations, and decisions.

Mr. STEVENSON. Mr. President, I have discussed this with my comanager. We believe it is a sound amendment. We believe we are prepared to accept it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JACKSON. Wait a minute. There is the modification. I did not modify it.

UP AMENDMENT NO. 430

(Purpose: To provide for adequate recordkeeping with respect to license decisions and control list revisions)

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendment which is now at the clerk's desk, be modified.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment is as follows:

On page 73, line 15, change the period to a comma, and insert the following: "including the factual and analytical basis for the decision, together with any dissenting recommendations received from any agency." and on page 63, line 23, after the period add the following:

"The Secretary and any agency rendering advice with respect to export controls shall keep adequate records of all decisions made with respect to revision of the list of controlled goods and technology, including the factual and analytical basis for the decision, together with the dissenting recommendations received from any agency."

Mr. JACKSON. Mr. President, the language of the recordkeeping provision of the bill applies only to license applications. However, of equal, if not greater importance are the more basic decisions as to what and how to control goods and technologies. The amendment thus makes it clear that the recordkeeping requirement extends to the control process. The amendment also specifies that the factual and analytical basis be recorded. These records should facilitate consistency in control and license decisions as well as permit responsible executive branch officials and congressional committees with export oversight duties to ascertain whether decisions are factually supported and consistent with the policies and provisions of the act.

The PRESIDING OFFICER. The amendment is so modified.

Is all time yielded back?

Mr. STEVENSON. Mr. President, it is the amendment, as modified, that we accept. I thought it had been modified.

I am prepared to yield back the remainder of my time.

Mr. HEINZ. I yield back our time.

Mr. JACKSON. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified.

The amendment (No. 430) the modified version of amendment No. 350 was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 351

(Purpose: To provide for a report to Congress if the President overrules the Secretary of Defense)

Mr. JACKSON. Mr. President, I call up amendment No. 351.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself and Messrs. NUNN, HOLLINGS, COHEN, HATCH, HARRY F. BYRD, JR., TOWER, and MOYNIHAN, proposes amendment No. 351:

At the bottom of page 72, add the following:

(D) Whenever the President exercises his authority under this paragraph to modify or overrule a recommendation made by the Secretary of Defense or exercises his authority to modify or overrule any determination made by the Secretary of Defense pursuant to section 4(a)(2)(B) or 4(b)(1) of this Act with respect to list of goods and technologies controlled for national security purposes, the President shall promptly transmit to the Congress a statement indicating his decision, together with the recommendation of the Secretary of Defense.

Mr. JACKSON. Mr. President, this amendment requires the President to report to Congress if he overrules any recommendation or determination by the Secretary of Defense. As it pertains to the requirement for a report if the President overrules or modifies a licensing recommendation by the Secretary of Defense—the amendment merely provides what is now a part of section 4(h) of the act. This provision is not in the bill. In this connection, the Banking Committee report (page 10) states that the bill makes "no substantive changes from those contained in [existing] section 4 (h)" of the act. By deleting this reporting provision, the bill would effect a substantive change with no apparent justification for doing so. In addition, the amendment would extend the reporting requirement to situations in which the President overrules any determination made by the Secretary of Defense pursuant to the Secretary's authority to formulate a list of goods and technologies to be controlled for national security purposes.

Mr. President, it is my understanding that this amendment is acceptable.

Mr. STEVENSON. Mr. President, this amendment continues the existing law. It is acceptable.

I am prepared to yield back the remainder of my time.

Mr. HEINZ. Mr. President, I am prepared to accept the amendment, and I yield back the remainder of my time.

Mr. JACKSON. I yield back my time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 352, AS MODIFIED

(Purpose: To clarify that the President cannot delegate his authority to overrule the Secretary of Defense)

Mr. JACKSON. Mr. President, I call up amendment No. 352, as modified.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself, Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr HATCH, Mr HARRY F BYRD, JR., Mr. TOWERS, and Mr. MOYNIHAN proposes an amendment numbered 352, as modified:

On page 79, line 17, after the period, add the following new sentence "The President may not delegate or transfer his power, authority, and discretion to overrule or modify any recommendation or decision made by the Secretary of Commerce, the Secretary of Defense and the Secretary of State, pursuant to the provisions of this Act.".

Mr. JACKSON. Mr. President, this amendment would clarify that the President cannot delegate this authority to overrule the Secretary of Defense. This merely makes explicit what is already implicit in the present act and the bill.

It is my understanding that we have an accord on this amendment with the majority and the minority sides.

Mr. STEVENSON. I have no objection to this amendment.

Mr. HEINZ. I have no objection.

Mr. JACKSON. I yield back my time.

Mr. STEVENSON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 431

(Purpose: To clarify provisions restricting export of Alaskan oil)

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for himself and others, proposes an unprinted amendment numbered 431.

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

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

The amendment is as follows:

On page 74, line 22, insert new section (g) as follows:

(g)(1) Notwithstanding any other provision of this Act, no domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to the requirements of either subsection (u) of section 28 of the Mineral Leasing Act of 1920 as amended (30

U.S.C. 185), or section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653), (except any such crude oil which (A) is exported, for the purpose of effectuating an exchange in which the crude oil is exported to an adjacent foreign state in exchange for the same quantity of crude oil being exported from that state to the United States; such exchange must meet the price standard of paragraph 2(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) The President makes and publishes an express finding that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) except for minor impacts due to quality or gravity adjustments, will have no adverse impact on wholesale or retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contract which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(iv) are in the national interest;

(v) are in accordance with the provisions of this Act; and

(vi) in the case of crude oil which is transported by pipeline over right-of-way granted pursuant to the requirements of section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653), the oil to be exported consists of volumes in excess of that which was so transported on an average daily basis during the 30 days preceding July 1, 1979; and

(B) The President submits reports to the Congress containing findings made under this subsection and after date of receipt of such report, the Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within this time period passes a concurrent resolution of disapproval stating disagreement with the President's findings concerning the national interest, further exports made pursuant to the aforementioned Presidential findings shall cease.

(C) Paragraphs 1 and 2 shall remain in effect only until July 1, 1980.

3. Notwithstanding the foregoing provisions of this subsection or any other provision of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251 (d) of the Energy Policy and Conservation Act (42 U.S.C. 6271); *Provided further*, That the President promptly notifies Congress of each such agreement.

Mr. STEVENS. Mr. President, we have a time agreement on a series of amendments that I had considered offering to deal with the question in the bill of the treatment of Alaskan oil. It is obvious that because of the hour, the day, and the situation in which we are involved, this is not the time to offer a package of amendments merely to make a record, and therefore, I am not going to offer some of those amendments.

A copy of my principal amendment, together with an accompanying "Dear Colleague" letter, is on the deck of each Senator. It is submitted on behalf of Senators STEVENSON, KASSEBAUM, DOLE, TOWER, DOMENICI, WALLOP, and myself, as well as my colleague, Senator GRAVEL.

This amendment deletes the entire section (g) of the bill and replaces it with a new section (g).

The new section begins by making it clear that the restrictions apply to oil shipped through pipelines which have rights-of-way granted under section 28(u) of the Mineral Leasing Act of 1920 and section 203 of the Trans-Alaska Pipeline Authorization Act. Most pipelines in this Nation, which cross Federal land, have section 28(u) rights-of-way. The only exception is the trans-Alaska pipeline, which was granted a right-of-way under special congressional action. This amendment is intended to apply to all pipelines in the Nation, which have rights-of-ways granted under either of these two laws.

The amendment in subsection 1, provides for a general prohibition on exports of oil unless they meet the conditions allowing a swap in subsection 2.

However, oil which is exported to an adjacent foreign state: that is, Canada or Mexico, falls into two possible special exemptions from the general prohibition on export of oil.

Any oil sent to either Canada or Mexico in exchange for the same amount of oil being exported from that nation to the United States, and which does not result in any increase in prices to U.S. consumers, may be exported.

At the present time, such swaps are common with Canada and refiners in the Northern Tier of States. Large amounts of petroleum (28.7 million barrels last year) were swapped, and we do not intend to interfere with those ongoing exchanges.

A second general exception occurs in subsection 1, which permits the export of oil which is temporarily transported across parts of an adjacent foreign nation, like Canada or Mexico, and which is returned to the United States. We do not intend to stop those exports and so have incorporated this exemption.

Section 2 of this amendment requires that the President make several findings before any crude oil can be exported. The effect is to eliminate straight exports. We are dealing with exchange, not sale of oil. Section 2 of this amendment, as I stated, specifically requires the President to make these findings.

First, he must find that the proposed swap would not diminish the total quantity of petroleum available to the United States. We must find that the quantity, or volume, of oil to be refined within, or stored within, or legally committed to the United States will not be diminished. It is not necessary that he find there is no decrease in oil available for each of these categories, but only that he find that the total amount available for all of these categories is not diminished.

This criterion is different from the Riegle amendment, which requires that there be no decrease in quality of oil as well. Because of the different chemical makeup of oil this requirement is impossible to meet. Alaska oil is low in sulphur but high in specific gravity. It is heavy and many refineries cannot handle it. But, since it is low in sulphur content, it is valuable to some refineries in areas of higher air pollution.

The second criterion in the amendment provides that, except for minor adjustments due to quality and gravity adjustments, any swap or exchange must have no adverse impact on wholesale or consumer prices of the products refined from such crude.

The Riegle amendment provides that at least 75 percent of the savings of any swap be passed on to the consumers. This finding is impossible to make without price controls on refined products, and without massive auditing.

It is our intention that any swap not increase consumer or wholesale prices. Conducted properly swaps should have no impact and, hopefully, would reduce prices somewhat. They would result in transportation savings and I hope that the savings will benefit consumers. But there is no way to require that and no way to force that. It is much better merely to prohibit any increase in prices from such swaps.

In any swap, because of the difference of the oils available, some minor adjustments in prices will be necessary. Early this year, when Mexican oil was selling at about $14 a barrel, it was estimated that the adjustment would be 38 cents. This is the magnitude of the "minor adjustments." They will be small and limited strictly to the normal kinds of adjustments used by the oil industry to compensate for differences in oil quality.

The third condition the President must find before any swap is perhaps the most important. It requires that any contract be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished. Any swap must be completely contingent upon delivery of the foreign oil to this Nation. Any interruption of the delivery of foreign oil must terminate the contract and all our obligations to provide oil. Without these protections and absolute certainty of delivery of the foreign oil no swap can be permitted.

The fifth criterion requires any export to meet the provisions of the other sections of the Export Administration Act. This condition was in the Riegle amendment and in the former restrictions in the Export Administration Act.

The sixth condition in our amendment is that if oil, which passed through the Trans-Alaska pipeline is exported, it must be oil in excess of the amount transported on an average daily basis during the month of June 1979. It is our intention that the only Alaska oil that is exported be that which is new production. This will insure that the current level

of maritime activity will be preserved. No jobs will be lost, no ships will have to be drydocked. This will also insure that any exported oil comes from increased production. Not from current production.

This condition is not in the Riegle amendment.

This amendment revises the congressional review process of the current bill. As reported, the bill requires that the Congress pass a concurrent resolution of approval within 60 days before any swap or exchange can proceed. It is a cumbersome and unwieldly process, which greatly diminishes the chances of a swap. No provision is made for recess periods, or days when Congress is not in session.

This amendment substitutes a provision allowing the Congress to reject any swap. The swap can proceed while the congressional review is underway. We require that of the 60 days in which Congress must act, we must have been in session 30 days, thereby insuring that Congress will have a chance to review the swap. This language is the procedure in the Mineral Leasing Act, which was originally agreed upon during the debate of the Trans-Alaska Pipeline Authorization Act. It is a good flexible procedure which guarantees congressional oversight.

Our amendment places a time limit on the restrictions. They will remain in effect only until July 1, 1980. The previous restrictions in the Export Administration Act contained a 2-year limit. It is our strong belief that with the speed with which the world oil situation changes, we should not tie the hands of the administration for too long a period. A reexamination of this subject on a regular basis is valuable and needed.

The final section of the amendment is taken verbatim from the Riegle amendment and provides that the restrictions on exports do not apply to exports needed to meet our international obligations. The agreement with Israel, we entered into as a result of the peace treaty with Egypt, must be honored, as well as our obligations under the international energy agreement, when it is implemented and oil sharing is required.

In sum, I feel this is a good balanced amendment. It is not what I would like. I would like to eliminate entirely the discrimination that some people are waging against Alaskan oil. But this amendment will revise the requirements of the Riegle amendment in a reasonable and careful fashion. Swaps or exchanges will be permitted, but only when they are in the national interest, only when our consumers are protected against any drastic price increase, and only with the guarantee of receiving an equal or greater amount of oil. The amendment gives the President the flexibility he needs.

I hope that we will support it.

Let me state, Mr. President, that there are other problems with the Riegle amendment. One of these is that it does not recognize that some swaps take place between gas and oil. We are in the process of trying to get the gas pipeline constructed. If it is constructed, I envision the swap of gas to northern Canada in exchange for the delivery of oil to the eastern part of the United States. Yet the Riegle amendment would preclude that from happening.

I cannot understand, in the first place, why Alaskan oil should be restricted by Congress. It is clear that with the bill before us, as passed the House of Representatives, most of its provisions will survive, therefore I think this is the best we can do at the present time.

I hope that the time will come when some Members of Congress will understand that 40 percent of the potential oil production for the United States in the future will be from my State.

The Riegle amendment will deter the industry from making the investments that are necessary to expand production because the Riegle amendment will commit us to a process of not utilizing an exchange process to increase production in Alaska in order to assure that the transportation will be to the benefit of the Nation as a whole.

I supported at the time of the Alaska Pipeline Act the amendment that was offered by Senator Pastore. We sought to bring about an equitable distribution of the crude oil supplies, particularly those from Alaska, to regions throughout the Nation.

With the completion of the gas pipeline and the adoption of this amendment, I can assure the Senate that we will, in fact, increase our production in Alaska by at least 800,000 barrels a day.

These is no incentive today to increase that production because of what some call the glut on the west coast. It really is a surplus of Alaskan oil over the ability of the western refineries to run Alaskan oil, and that oil currently has to go through the Panama Canal at an increased price to the consumers. It is taken into the gulf coast or to the Virgin Islands for refining.

If we are to increase our production up to at least the capacity of the trans-Alaska pipeline's 2 million barrels a day, we need to know that there is an ability to transport that oil; that our transportation system will work, and that that oil can be transported by virtue of exchanges that will inure to the benefit of the country as a whole and increase the quality of oil available to the United States.

As I said, I had a series of amendments, and this might be literally called the last trench in which to fall back if we failed on the other two. In the interest of time, and because it is Saturday, I have not even put those in the RECORD. I am hopeful that the Senate and my Alaskan constituents will understand that.

But I do believe the current provision in the bill is discriminatory, is contrary to the best interests of the United States, ties the hands of the President, and will not allow us to increase our production in Alaska.

If we are to increase our production, the Members of Congress must stop discriminating against my State's oil. I firmly believe that passage of the Riegle amendment will result in this scenario. There is no prohibition on the export of products, and I do not think Congress would ever legislate one because almost every oil-producing State and every refinery exports some kind of product. If the Riegle amendment stays in this bill, the net result will be that my State will have to adopt a policy of assuring that Alaskan oil which is owned by the State and refined in Alaska, and those products resulting from it will be exported.

The net long-term effect of the Riegle amendment is contrary to the best interest of the United States and it is contrary to the continuation of the refineries that exist throughout the country that are already constructed. It will lead to construction of new refineries in my State and, incidentally, that would not be too bad from an economic point of view for us over the long run, but in the short run it would not give us the incentive to increase production.

We are committed to increasing production. We have the capability of increasing production.

And I hope that the Members of the Senate will understand that if we are forced to delay increased production in order to get time to build refineries, it is just totally contrary to the best interest of the United States.

I feel strongly that this amendment should be adopted and I hope it will be.

I thank those who have supported me in offering it.

Mr. President, I reserve the remainder of my time.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER (Mr. McGOVERN). Who yields time?

Mr. RIEGLE. Mr. President, I have heard some interesting things from the Senator from Alaska, and I always thought that——

The PRESIDING OFFICER. The Senator from Michigan will withhold. I do not believe he has time. Will someone yield to the Senator from Michigan?

Mr. RIEGLE. Mr. President, I will say to the Chair under the time agreement there were 4 hours evenly divided, and I was in charge of 2 of those 4 hours.

The PRESIDING OFFICER. The Senator is correct.

The Chair stands corrected.

Mr. RIEGLE. I yield myself whatever time I may use at this point.

I have always thought that Alaska was part of the United States. I thought it was one of the 50 States and we were all tied together. Frankly, I detect what I gather is something of a threatening tone there that if Alaska is not satisfied with the arrangements in terms of oil, it is going to take this step and that step and another step and find ways to export that oil abroad. I hope that that will not happen. I think that that would be an exceedingly shortsighted thing to do and even that suggestion is based on a set of assertions that I have just heard that are just not correct.

Alaska is not having any trouble selling the oil today that it has. In fact, it is selling it very readily, and there are a lot of people who want to buy it, and they are prepared to buy more of it if it is available.

We have a crude oil shortage in the United States, and I am speaking now of all the 50 States, and not just 1 of them.

We have a shortage in the other 49 States, and the oil is badly needed. The notion that somehow or another we are in a situation where we should start exporting Alaskan crude abroad just does not make any sense at all. Yes, it may make sense to the Japanese because Japan would like to be in a position where it can get oil from the United States for less than it is presently paying Mexico or other suppliers. But it hardly seems that it makes sense from a point of view of our trade situation with Japan to facilitate them getting oil at less money than they presently have to pay and particularly because we gain nothing, if we make it easier for Japan to acquire Mexican oil under some kind of a swap arrangement.

One of the advantages we have with respect to the supply of oil in Mexico today is proximity, and the fact that the cost of transporting Mexican oil into Houston is a relatively minor cost, about 45 cents per barrel, whereas, on the other hand, the Japanese, if they are going to buy Mexican crude, have to end up spending $1.80 a barrel.

So it is clear to the extent we make it easier and actually subsidize through these kinds of swap arrangements the movement of scarce American oil to Japan at a lower price than they otherwise would have to pay, makes absolutely no sense at all.

Frankly, I think it in some respects is even an insulting notion in terms of what it means to the rest of the United States.

If there is one thing that is obvious, and was obvious before the President spoke, to most people, and certainly ought to have been obvious to all people after he spoke the other evening, it was that we have an energy problem in the United States, and that we need oil.

What is being proposed by this amendment, and what previously was defeated in the Banking Committee, is the proposition that says that scarce American crude oil can leave this country and go to foreign buyers.

Of course, my friend from Alaska skips over the point that Alaskan oil is some of the best in the world in terms of its quality. It is not just the issue of quantity, as serious as that issue is, but it is also the fact that oil from Alaska can yield more unleaded gas. It has other beneficial qualities to it that have to be considered. So the notion that somehow, through some sort of an arrangement, we should be unloading short-supply high-quality American crude oil on foreign buyers is basically absurd right on its face.

In terms of the notion that there is a need here to provide additional markets, foreign markets, in order to bring Alaskan crude on line, I find not a scrap of evidence to support that assertion. I know of no document, no statement by any of the major oil companies that are participating in Alaska today and who own the leases there, I know of no statement in writing by any chief executive of those firms saying that they need the export market for oil in order to increase production in Alaska.

If anybody here can produce that in the course of the debate, I would like to see it. But, frankly, it does not exist. It does not exist because they know they can sell this oil quite readily.

We desperately need not only to have that oil available in the lower States but we need the pipeline facilities to be able to use it. I will tell you this: If the Stevens amendment passes so that this oil starts leaving the United States and goes to Japan and to other buyers, we are never going to get the pipeline built that we need. In fact, the Northern Tier pipeline, which is now ready to go, cannot possibly succeed or be viable unless we can depend upon that additional production from Alaska to be available to come through that pipeline to serve all of these States in the lower 48 States of the United States.

The Senator from Alaska knows that but he is prepared to see that oil go to foreign countries and, as a matter of fact, it does absolutely nothing to provide any benefit to American consumers or do anything to improve our balance-of-payments situation. In fact, if one traces through all the transactions here it is obvious in virtually every instance that it would hurt our balance-of-payments situation. How that makes sense is absolutely beyond me.

The only people who stand to gain from the Stevens proposition are the State of Alaska, at the expense of the other 49 States, and the oil producers who will make a little more money. In fact, they will make a lot more money if you multiply it by the number of barrels.

So basically, to have that kind of special legislation—and that is clearly what it is—coming in in the midst of an energy crisis that everybody understands really, I think, stretches what we ought to be trying to accomplish around here.

Frankly, I am not happy to see us have to debate on a Saturday afternoon this matter because this issue is a strategic issue in terms of the security of the United States.

We are sitting in the United States with about a 5- or 6-day supply of oil, and if there should be another foreign interruption, and we should have some other problem arise, the notion we should take this dwindling resource and start sending it abroad ought to be something we should be debating and voting on it when there are 100 Senators present, and not in the waning and, presumably, fading hours of a Saturday afternoon. This is an absolutely vital national strategic issue.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. RIEGLE. Yes, I yield without losing my right to the floor.

WHY THE SENATE IS IN SESSION TODAY

Mr. ROBERT C. BYRD. Lest there be any misunderstanding as to why we are doing this on a Saturday afternoon, before the Independence holiday on two occasions I took the floor and explained the situation. I stated that from the day that Congress convened until the Independence Day holiday the Senate had been in for only two Fridays, and no Saturdays, and that following the Independence Day holiday, in order to get our work done, we would have to be in every Saturday through July.

Fortunately, we were able to avoid a session last Saturday because of time agreements and the waiver of the 3-day rule, et cetera. We made more progress by getting those concessions than we would have made had we come in.

All Senators were on notice that there would be Saturday sessions, that notice was given before the Independence Day break; only moments ago 85 Senators cast their votes on the last rollcall.

I do not think anyone should be under the impression that this was a sudden move to have a Saturday session.

We are here on Saturday and we are discussing an important matter. But Senators have a full-time job, and it is very difficult for the leadership to keep the legislative process moving if we are only going to come in an Saturday for a few hours and then go out.

Those Senators who do come in—and there are 85 of them.—deserve consideration, too. They are here, they are ready to do business, and they are willing to see this bill disposed of before they go home.

Some Members may be out, but they left knowing there was going to be a session and knowing there were going to be rollcall votes.

I would hesitate to see us put this bill over until Monday if it can be disposed of today. This bill could not be brought up before now. The distinguished manager was chairing the Ethics Committee hearings, and he was unable to give his attention to this bill. But he is here today, and I say let us dispose of the bill today.

I understand the strong feelings of the distinguished Senator from Michigan. He may win. I hope we will not put this vote over until Monday. I may vote with him, but let us have a vote. Who knows, on Monday there may be more than 85 here or there may be fewer.

I hope we will not put a vote over until Monday on the basis that two or three of our colleagues are away. I will be happy to pair. Maybe we can get pairs from the opposite side of the issue to make up for any votes that the Senator feels are lost to him due to absences today. But let us try to get a vote and dispose of the matter today.

I thank the Senator for being so patient and for yielding.

Mr. RIEGLE. I am delighted to yield to the majority leader. Let me just say I think everyone appreciates, and certainly I appreciate, the fact that you put everybody certainly on notice about Saturday sessions, and we need to work on Saturdays, and I do not think there is any question about that, and I do not want my remarks earlier to sound as if that is not clearly understood in terms of where we begin from.

But I think it is also important to note, and I think the majority leader knows, that we were ready to go with this bill as of the 1st of June, and the sponsor of the amendment had a hold on this bill for many weeks, and we were not able to get that resolved. So an awful lot of time has gone by.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. RIEGLE. Sure.

Mr. ROBERT C. BYRD. The delay was solely because the sponsor of this amendment had a hold. There were holds on both sides, and some of my colleagues on this side of the aisle had holds on this bill. Let us not say that it was only because the author of the amendment had a hold on it.

I guess my point, Mr. Leader, is this: We have been ready to go on this matter, and, from a legislative point of view, the action of the committee has been taken, and for whatever the reasons, a month and a half has now passed without our being able to bring the matter up.

I think I and those on my side have been ready to deal with it for that entire month and a half. We are ready to deal with it today, and we will deal with it today. But my concern is this: This is a vital issue. What the President said the other night was correct, as you and I know, and it is a vital matter.

Mr. ROBERT C. BYRD. I want to vote with the Senator.

Mr. RIEGLE. I understand. But the problem is that this bill has to be debated. There may be other amendments. I have no way of knowing how many other amendments may come up. My concern is that we are starting very late in the afternoon. This is a Saturday, I am prepared to stay here, and will stay all night long, but I do not know whether everyone else is in the same situation. That is also a factor.

I do not understand why, when we have waited a month and a half, it must be debated and voted on today. Why not debate it today and let a vote take place on Monday, when everyone will have the opportunity to vote?

Mr. ROBERT C. BYRD. That may be the only way the matter can be disposed of, in the interest of fairness to all and in the interest of trying to accommodate Senators on both sides of the issue.

I would say one quick way to find out where the votes are is to call up the amendment and quickly move to table it. That would bring the votes in in a hurry. I would not try to influence the Senator to do that; he feels strongly about the matter, and wants it debated.

But is it not a reasonable suggestion that while the Senator is debating the issue and holding the floor, that some of those who are with him on the question might explore the possibility of reducing the time and voting on the amendment today?

I am told that the Senator's side will win if he will bring it to a vote today.

Mr. RIEGLE. I hope that is right.

Mr. MELCHER. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. RIEGLE. Yes, I yield without relinquishing my right to the floor.

Mr. MELCHER. I think without a doubt we ought to win overwhelmingly in defeating the amendment. What is the advantage to the Stevens amendment? Who gets help?

First, the oil companies get help, because they can get their crude sold in a better way. I do not question that. There has not been one moment since we started talking about clearing the way for the Alaskan pipeline bill that the owners of the crude on the North Slope have not made it abundantly clear that the best place for them to sell that oil was in Japan.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MELCHER. I am delighted to yield.

Mr. STEVENS. I hope the Senator does not talk about sale, because he knows that is what got us all the headlines before and that this solely involves the question of exchanges.

Mr. MELCHER. Let us talk about exchange, then.

Mr. STEVENS. Nobody is talking about selling oil to Japan. There is a specific prohibition against selling the oil to Japan.

Mr. MELCHER. I want to get to that point, because that is the biggest turkey of all. The exchange of oil, with whom? Canada or Mexico? Canada is not going to do it. Mexico will sell us all the oil we want to buy from them that they have available to sell, except for what they need, and some other pressing commitments they might have. We are getting 500,000 barrels a day out of Mexico now. If they get their production up to a million, I suppose we will purchase about 750,000 barrels a day from Mexico.

We do not need the amendment for crude exchange, sending Alaskan crude to Japan, to buy Mexican oil. The fact is that the effect of the Stevens amendment is to decrease the amount of oil that will be coming to the United States. We cannot gain from Mexico in that way; they have got it for sale, all we have to do is offer them the money. As their production increases, our opportunity to purchase more from Mexico will be there. So we do not gain from the exchange.

I do not begrudge the State of Alaska wanting to get the biggest price they can for Alaskan crude. An exchange arrangement would give them a better return. I do not begrudge the Alaskan Natives getting the best return they can from Alaskan crude from the North Slope. An exchange with Japan would give them a better price. But I do begrudge decreasing the stable supply that is near and available for the entire United States. I do not want to do that at all.

One of the tough agreements that we had with the trans-Alaska pipeline bill, on is passage, insisted upon by the New England coalition, was the equitable distribution clause, which is cited here as clause U.

Mr. STEVENS. Mr. President——

Mr. RIEGLE. Mr. President, I have not yielded the floor. I yield to the Senator from Montana (Mr. MELCHER).

Mr. MELCHER. I would like to make one further point, then, if the Senator from Michigan will yield to the Senator from Alaska, perhaps the Senator from Alaska will want to address this point, too.

We are about ready, I hope, in this country, to develop an energy policy, including the transportation of oil within the lower 48 States. The Northern Tier pipeline has been mentioned, a pipeline that would go from Port Angeles, Wash., across Idaho, through my State, through North Dakota, and then to Clearbrook Minn., to hook up with existing pipelines. It is a big proposal. It would have the capacity of 90,000 barrels a day.

The hope is we are going to be able to clear up the environmental impact statement by late August, and by October 15 the Secretary of the Interior is to make a recommendation to the President for selection of a route.

Hopefully, from my point of view and I hope from that of most people in the Northwest, that route will be the Northern Tier pipeline system. When that happens, Federal permits are issued, and if State permits are issued, the first thing Northern Tier will have to do is go to the bonding market and try to sell some bonds. Without an assured supply, a great deal of which must be Alaskan crude, those people will have a very tough time. The Northern Tier officials would have a very tough time in the bonding market selling their bonds without available Alaskan crude supplies. With Alaskan crude being available, it will be a fairly easy job selling the bonds.

The Senator from Alaska says this is an exchange which could be interrupted. I want to tell you, if there is anything that queers the money markets in this country today, it is the doubt or uncertainty about decisions of executive branches of government to change market supply conditions that exist. And once this exchange goes into place, what is the hope, or even the opportunity, for Northern Tier going into the bonding market and selling its bonds? It would put their AAA rating down to A—, or maybe B—; but it would be a tough job.

So we are tampering here with the opportunity of a very key part of satisfying our energy needs. We are tampering here with the problem of distribution of crude from Alaska by the proper construction of pipelines to the refineries that need the crude. I thank the Senator for yielding.

Mr. RIEGLE. Mr. President, let me make it clear—on my time, now; I still have the floor—what my intention is. That is to yield briefly to the Senator from Indiana. There are other Senators who have asked to speak, and who want to insert statements in the RECORD. I am going to ask unanimous consent that they have the opportunity to do that, and then I want to yield a couple of minutes to the Senator from Alaska, so that he can say whatever in addition he wants to in response to these points, and then I intend to move to table the amendment.

In any event, that is what I will very shortly do. So let me yield to the Senator from Indiana.

Mr. STEVENS. Mr. President, will the Senator yield to me for a parliamentary inquiry?

Mr. RIEGLE. I yield.

Mr. STEVENS. The Senator has no

right to do what he has just said he plans to do. We are under controlled time, and a motion to table is not in order until time is yielded back.

Mr. BAYH. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. If the mover of the motion to table yields back his time, then a motion to table is in order, is it not?

The PRESIDING OFFICER. The time of the proponents of the amendment must be yielded back before a tabling motion can be in order.

Mr. STEVENS. I will be happy to work out a time agreement to shorten the time allotted for the consideration of this amendment, Mr. President. If the Senator from Michigan wants to discuss that time limitation now, I am sure he can be accommodated.

Mr. RIEGLE. Let me say I thought the Senator had yielded back his time earlier.

Mr. STEVENS. I had reserved the remainder of my time.

Mr. DURKIN. Will the Senator yield?

Mr. RIEGLE. I will yield to the Senator shortly, but I agreed to yield first to the Senator from Indiana. I will yield 3 minutes to the Senator without losing my right to the floor.

Mr. BAYH. Mr. President, I rise to join with my colleague from Michigan to state my strong opposition to unbridled exports of Alaskan oil, and urge my colleagues to support the restrictions on exporting Alaskan oil contained in the Export Administration Act amendments now before the Senate. The limits on Alaskan oil swaps or exports in the bill, which were sponsored by Senator RIEGLE, and adopted by a majority of the Banking Committee, will insure that no oil will leave our shores unless it can be demonstrated, beyond a doubt, to both Houses of Congress, as well as the President, that such action is clearly in the national interest. These provisions, it seems to me, set only minimum standards for permitting exports or swaps of Alaskan oil:

That exports will not diminish the quality or quantity of oil in the United States;

That exports will result in lower acquisition costs to our refiners;

That these lower costs will be passed on to consumers; and

That contracts for exports can be terminated by the United States if our oil supplies are interrupted.

Exports to meet our bilateral commitments to Israel, in the event of Israeli supply problems, are exempt from these restrictions, as are any exports that might be necessary to meet our commitments to the International Energy Agency in the event of sudden worldwide shortages.

Finally, any Presidential recommendation for swaps will have to be approved by both Houses of Congress, a reasonable review process given the importance of the issue before us.

Mr. President, I consider these provisions minimum requirements. If I had my druthers, I would permit no exports of Alaskan oil except for the most extraordinary circumstances. The question before the Senate today is whether Alaskan oil should be consumed in this country or sent abroad. I submit that it should stay here, that it must stay here, and that it is our responsibility to do everything in our power to end one of the most glaring ironies of our times—the presence of a surplus of oil on the west coast coincident with hour-long gas lines and shortages at service stations all over the Nation.

Mr. President, there is a great skepticism among the people of my State and the rest of this Nation about the causes for recent oil shortages and soaring prices. In the face of this skepticism, and the sacrifices that are going to be asked of the American people, I do not see how we can permit exports of Alaskan oil and still expect the public to contribute to our conservation efforts or have any confidence that we are making real efforts to equitably resolve our energy problems.

The Alaska pipeline has been operating for almost 2 years now, and approximately 1.2 million barrels of oil flow daily through the line from Alaska's North Slope to Valdez for tanker shipment to California and east coast refiners. By the end of this year, production will increase to 1.4 or 1.5 barrels per day. The pipeline could handle a throughput of 2 million barrels per day. But this additional oil is not being produced, and the pipeline has not been modified to handle it, because west coast refineries are incapable of absorbing all of this oil. Therefore, approximately 350,000 to 400,000 barrels per day must be shipped through the Panama Canal to the eastern part of the country, and Alaskan producers have chosen not to increase production by another 500,000 barrels because of the expense of shipping oil through the canal. Conservative estimates place the cost of this transshipment at $3 per barrel which comes out of the producer's pockets. According to a General Accounting Office study released last July, the west coast surplus could reach up to 2 million barrels per day by 1985, at the same time that large sections of the country—the Midwest and East especially—will become more dependent on imported oil and petroleum products.

Mr. President, the discovery of oil on the North Slope of Alaska has been a godsend to this Nation. Oil production during the first year of the pipeline's operation was responsible for keeping $1.3 billion in this country and reducing oil imports by 13 percent. North Slope oil and reserves off the east and west coasts, and the Alaskan coast, represent the only new major sources of domestic petroleum we are likely to have. Proven reserves on Alaska's North Slope have been estimated at 10 billion barrels, and in all likelihood these reserves are probably closer to 50 billion barrels. At a rate of 2 million barrels per day, this oil supply will continue to serve America's needs for liquid energy for decades—if we preserve it for our own use.

Mr. President, the oil companies want to export this oil, which they ironically dub "surplus" oil. And, if they are given the freedom to export domestic oil, you can be sure that as production increases in Alaska this oil will end up in Tokyo and not in Butte or Des Moines, or Milwaukee or Indianapolis.

Mr. President, at a time when we are lifting price controls on domestic oil, at a cost of untold billions of dollars to our constituents, in the hopes of maybe producing a couple of hundred thousand additional barrels of domestic oil, it is incredible to me that we would permit what is likely to be considerably more oil than this to leave our shores so that the Alaskan oil producers can enlarge their coffers even further.

We are going to need that Alaskan oil down the road for ourselves, make no mistake about it. Despite our best efforts at conservation, and at conversion to alternative fuels, we are going to start running out of liquid fuels in this country sooner than we would like to admit. It would be the height of folly and shortsightedness to construct a situation which rewards those who export our rapidly diminishing and increasingly precious supplies of petroleum, rather than fashioning a long-term, durable and equitable solution to our oil distribution problems.

I would like to see us produce every drop of Alaskan oil we can, Mr. President and I am sure my colleagues who support exports of Alaskan oil feel the same way. However, I part company from them in that I believe we should reserve Alaskan oil solely for our own needs and not set up a situation where it will be more attractive for American oil producers to sell our fossil fuels abroad than it is for them to sell them at home. This is exactly what will happen without strong and permanent legislative restrictions which reduce the likelihood of Alaskan oil exports.

EXPORTS ARE NOT NECESSARY FOR INCREASED ALASKAN PRODUCTION

The argument has been made, Mr. President, that we must permit exports in order to provide increased incentives—that is, profits—for the major Alaskan oil producers to step up their production on the North Slope. By providing the President with greater leeway to authorize exports, the argument goes and by allowing the producers to export even greater amounts of Alaskan oil to Japan, they will have the necessary incentive to go out and find and produce more Alaskan oil.

I, for one, simply cannot buy this argument, Mr. President. I do not think extra profits are the necessary key to increased production in Alaska. Instead, it seems clear to me that a transportation system that can efficiently move that oil to domestic markets is the key to increased production. And permitting exports of Alaskan oil is the surest way I know of guaranteeing that that system is never put in place.

Mr. President, I can certainly understand the desire of the major Alaskan oil producers—Exxon, Sohio, and Arco—to sell domestic oil abroad. Right now, Alaskan producers receive OPEC prices, minus transportation costs, for their product. Thus, they have been absorb-

ing the $3-per-barrel cost of shipping their oil to gulf coast ports. The desire of the producers to export Alaskan oil stems from their hope of capturing the savings in transportation costs that would accrue to them by shipping Alaskan oil to Japan, which is cheaper than shipping it to American refiners through the Panama Canal.

Frankly, Mr. President, I am getting tired of being told that ever larger oil company profits is the only sure fire method of decreasing our dependence on foreign oil. The question before us is as clear a refutation of that argument as I have seen. It is clear to this Senator that the oil companies are already making a healthy profit on Alaskan oil, especially in light of producers' original expectations and recent OPEC price increases.

The return of Alaskan producers at the wellhead was about $7 per barrel before the most recent round of OPEC price increases. In the first 6 months of this year, producer wellhead profits have increased by more than 70 percent, according to the Petroleum Intelligence Weekly. If Alaskan producers were not making enough to increase exploration activities before 1979, it seems to me they have plenty of incentive for increased exploration and production in Alaska now. On the average, prices for Alaskan oil are up as much as 40 percent over 1978 end of the year prices on the west coast. Alaskan oil is also going for much higher prices on the gulf coast, because of Mexican price increases. Mr. President, I ask unanimous consent that this article, which appeared on June 18, be inserted in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BAYH. A clear indication that producers have sufficient incentive to further develop Alaskan resources is the announcement made by North Slope producers that production will increase by up to 300,000 barrels a day by the end of 1979. It does not seem, therefore, that the limitations contained in the expiring provisions of the Export Administration Act have been much of a disincentive to increased production. Nor do I think the restrictions placed in this bill will be either. The plain fact is that we can expect higher production in Alaska because the oil companies are sitting on a gold mine up there and it is already profitable for them now to develop Alaskan resources. Further evidence of this fact is Arco's intention to actively develop the Kuparuk field, which should yield 60,000 barrels of oil per day by 1982. Mr. President, those producers just want to squeeze every penny they can from that oil. That is their responsibility to their shareholders and I do not fault them for it. But our responsibility is to safeguard the public's interest by keeping that oil here in America.

CONSUMERS WILL NOT BENEFIT FROM EXPORTS

Who can expect to benefit from arrangements to swap Alaskan oil with Japan? Certainly the oil companies will benefit. And the State of Alaska will benefit. But the American people will not benefit. Even the proponents of Alaskan oil swaps do not argue that the transportation savings that would result from such swaps will go to American consumers. If such were the case, the proponents of swaps would have a stronger case. And the language in this bill permits swaps that will reduce costs to American citizens if they are substantial. I urge the Senate not to backtrack on these provisions. While I believe exports may be a bad idea under any but the most extraordinary conditions, they certainly must not even be considered unless they will benefit American consumers through lower prices.

EXPORTS WILL HEIGHTEN OUR VULNERABILITY TO FOREIGN SUPPLIES

Mr. President, the trans-Alaskan pipeline was sold to the Congress and the American people as a means of reducing our dependence on imported oil. Our reliance on unstable foreign oil is universally perceived to be one of our most pressing national problems. Therefore, it is essential that we consider the impact of permitting swaps on our efforts to minimize disruptions stemming from interruptions in the flow of foreign oil to the United States.

Our dependence on foreign oil has actually increased in the 2 years since production in Alaska began. I think it is central to our understanding of this issue to observe that the exchange of Alaskan oil for Mexican or Indonesian crude oil will not reduce in any way our reliance on imported oil. Simply put, oil swaps will at best leave us just as vulnerable to oil supply distruptions as we currently are, and at worst, increase our dependence on foreign oil.

Mr. President, although we cannot address the specifics of an oil swap arrangement, since none has yet been negotiated, the general outlines of such a plan are clear. In all likelihood, the United States would agree to send an amount of Alaskan oil to Japan in exchange for receiving oil purchased by Japan fom Mexico or Indonesia in the United States.

I think it is a very telling reminder of the degree to which such an arrangement would place U.S. energy supplies at the mercy of foreign producers to recall that only recently it was assumed that a swap proposal would involve Iranian oil. We need no more graphic illustration of the foolishness of continuing to rely on foreign suppliers for our crude oil needs than the Iranian oil cutoff earlier this year. We cannot afford to overlook the possibility that events in Mexico or Indonesia sometime down the road could result in disruption of oil shipments from these countries. Where would the United States be left then? We would still have a commitment to ship U.S. oil to Japan. Even if we were able to break such an obligation, we would find ourselves in precisely the same situation we face now with a glut of oil on the west coast and no transportation system in place to move supplies to the eastern part of the country. In addition to subjecting ourselves to these uncertainties, I believe that swaps would retard progress on our real problem; the inability to get Alaskan oil where it is needed and where it can be refined. It is clear to me, that encouraging even greater dependence on foreign suppliers is irresponsible and shortsighted. Instead, we must look toward a long-term solution to our Alaskan oil distribution problem.

NEED TO BUILD WEST-EAST PIPELINES

Mr. President, I want to see oil imports decline and not increase. Rather than sending our Alaskan oil to Japan in exchange for foreign oil, I want to see it going to Indiana, Ohio, Montana, and Wisconsin and Michigan and Minnesota and other States along the Northern Tier and in the Midwest. And I would like to see New England rely less on imported oil and refined petroleum products, and more on domestic oil.

Right now, our only alternative to shutting Alaskan oil in the ground, or exporting it, is to ship it through the Panama Canal all the way from Alaska to Puerto Rico and the gulf coast. We all agree that this process is cumbersome, expensive and wasteful. But rather than throw up our hands and give in to the longstanding desire of the Alaskan oil producers to export American oil, we must take decisive action to establish an oil distribution system that can efficiently move Alaskan energy resources to the lower 48.

Mr. President, permitting exportation of Alaskan oil is the worst possible step we can take right now if we are truly interested in stimulating construction of new pipelines to move this vast natural resource to factories and farms and homeowners all around this country.

What is so very frustrating about this debate, Mr. President, is that it is not a new issue. This is a fight many of use have been waging for over 6 years now. Back in 1973 I, along with our distinguished Vice President, opposed the Alaskan oil pipeline route, as opposed to a trans-Canadian route, because it was obous to us, even at that time, that an Alaskan route rather than a trans-Canadian route would not provide oil to the sections of the country that needed it most, but would likely result in a surplus of oil on the west coast instead. How ironic it is that the route touted as superior because it was "all-American" should now be the stimulus for exports of American oil, and increased dependence on foreign suppliers.

Mr. President, I certainly take no satisfaction in noting that our most dire predictions in 1973 have come true. When we lost the fight for a trans-Canadian route 6 years ago, by a hair-splitting vote, we tried to flat out prohibit the export of North Slope oil to make sure that it would be equitably distributed within our country. We lost that fight too and the problem is still with us. However, back in 1973, we did at least manage to get language restricting the conditions under which Alaskan oil could be exported. Under the terms of that 1973 legislation, any exports of Alaskan oil, with the exception of those to Mexico or Canada, would have required a Presidential finding, subject to a two-House congressional veto, that such exports would not di-

Second, it cannot occur if you are cutting America's oil imports. That is in it. So it must be for more oil rather than less.

Now, let us sit here today and talk about those obscene oil companies and do the ridiculous: Let us add $3 or $4 a barrel in transportation costs just because we want to be sure, positively sure, that we do not let a couple of steamers cross the ocean and we bring one to us that is closer, started out closer to us, so it ought ultimately to be cheaper for the cutting of costs of transportation. Do not do that because some oil company might make some money. So you ought to support Senator RIEGLE.

Mr. STONE. Will the Senator yield?

Mr. DOMENICI. Yes, I only have 30 seconds remaining.

Mr. STONE. I shall be brief.

Is it not true, if this amendment passes, we would have an increased leverage to work something out for increased Mexican production?

Mr. DOMENICI. Precisely.

Mr. STONE. Not only oil, gas?

Mr. DOMENICI. Precisely.

Tie the hands of the President so it will be harder to make any deal with Mexico. But in 2 or 3 years, we can come back and say, however, that we did not let anybody make an extra penny on this because we needed to bring every bit into America, whether it was economically right, or the thing to do to our President.

I close by saying that I am certain President Carter really wants this authority to let American oil companies get rich.

Mr. STEVENS. Mr. President, I have committed a minute to my good friend, Senator JEPSEN.

Mr. JEPSEN. Mr. President, the problem is that there is a "glut" of oil on the west coast of the United States. This is due to environmental restrictions which effectively prohibit the building of new refineries or pipelines to the central part of the country. Thus we are presently unable to effectively use Alaskan oil. It is believed that if the oil could be efficiently transported and refined that the Alaskan oil fields could substantially increase their output.

From this situation the idea of a swap arrangement has arisen. We would swap Alaskan oil to the Mexicans or Japanese in return for Mexican oil or oil the Japanese had previously contracted for. The result would be a much more efficient use of available oil resources and the U.S. would not lose one drop of oil.

It is unfortunately not feasible to transport the oil from Alaska to the Gulf coast, where it could be used, because only small freighters can fit through the Panama Canal, rather than the more efficient supertankers which bring oil from the Middle East. It is possible that a pipeline may still be built through Canada to bring Alaskan oil to the lower 48, but this is not certain and is many years away anyhow.

In conclusion, I think you should support amendments to the Export Administration Act to allow for swap arrangements for Alaskan oil.

Let us do something in this Senate for a change that is commonsense.

Mr. STEVENS. Mr. President, if I have 1 minute remaining, let me again state that this amendment is necessary to allow my State to increase production of oil by 800,000 barrels a day.

Today we are producing 1.1 million barrels a day. We have a pipeline designed to carry 2 million barrels.

Unless we are assured there would be a way to transport and effectively use that oil in the United States, and by agreeing to this amendment we will increase the availability of oil in the United States, then I do not believe the investment will be made to increase the pumping capacity or increase the production of the wells required to make certain we use the pipeline to full capacity.

Mr. RIEGLE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. RIEGLE. I yield a minute-and-a-half to the Senator from Louisiana.

Mr. JOHNSTON. I thank the Senator.

Mr. President, the question of production is a red herring. With the world oil prices at $20 a barrel and moving upward, we are going to produce all the oil we can find in Alaska and ship it.

What this fight is all about is a fight between big oil and American seamen. It is not even big American oil. It is BP, which is British Petroleum, which owns over half of that Alaskan oil.

The question is, do we give BP more profit or put it in the hands of American seamen, because American seamen, under the Jones Act, of course, have to go in American flagships. That is what the question is all about.

It is a tough question because it is a question of economic efficiency.

I come down on the side of American seamen because American jobs are involved.

We are not going to do anything for the American consumers by leasing them to Japan.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RIEGLE. Mr. President, I want to say, in addition to the comments of the Senator from Louisiana, it is currently U.S. policy to keep U.S. crude in the United States, and it is by reason of the fact that we need it.

There is no gain to consumers in the proposition put forward by Senator STEVENS. Yet, he says this is needed to increase production.

The oil companies already announced, without any export action being taken, they plan to increase production this year to 1.6 million barrels. As stated by the Senator from Louisiana, with the price levels being what they are, and rising, every drop that can be produced from Alaska will be, and it will be used.

So I find the situation is that all we can do, if we adopt the Stevens amendment, is to hurt the United States because we do not have any oil for export today that we can afford to let go.

It would benefit Japan. I grant it would. It would make it easier for Japan to receive oil at lower prices than otherwise.

But I do not for the life of me see how that creates any advantage for the United States.

I would like Mexico to view us as their principal market and not the Japanese.

Finally, if we are going to have a pipeline in the Northern Tier, we will have to count on all the Alaskan oil.

Several Senators addressed the Chair.

Mr. RIEGLE. Mr. President, due to a longstanding speaking engagement of great importance to his State, the junior Senator from Alaska (Mr. GRAVEL) was unable to be present for this Saturday session. However, those provisions of S. 737 relating to the export of Alaskan oil are of serious concern to him, and he has asked that I submit on his behalf prepared remarks on this subject. I therefore ask unanimous consent that there be printed at this point in the RECORD a statement by the Senator from Alaska.

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

The statement is as follows:

STATEMENT OF SENATOR MIKE GRAVEL OPPOSING S. 737 AND THE BAN ON EXPORTATION OF ALASKAN OIL

In 1973 the proven oil reserves of this country totalled over 36 billion barrels with domestic production of 9.2 million barrels per day. Today our reserves have fallen to less than 29 billion barrels while domestic production has declined by 800,000 barrels to 8.4 million barrels per day. During this same period, we have seen the President shift his emphasis from an energy crisis to a crisis of confidence. However, Presidential misdirection of energy policy is not the only reason for declining reserves. With the one exception of approval of the trans-Alaska pipeline, legislation by the Congress has done nothing to improve the concoction of regulations which has passed for energy policy in this country.

S. 737 is a continuing example of the energy menu which has been served to the American people. I have long opposed the prejudicial treatment of Alaska's North Slope resources which has surfaced from Congress to Congress since 1973. This bill, like its predecessor, restricts the ability of Alaska to export its surplus oil production. Unlike its predecessor, S. 737, with its series of criteria and one-house veto provision, results in an outright prohibition on any export, regardless of the net advantage to the United States.

The arguments supporting export are persuasive. Export could ultimately improve our balance of trade by billions of dollars, with the dollar-yen exchange rate showing favorable activity immediately.

Export would also mean that more North Slope oil would be produced. The TAPS line today is operating at less than its design capacity, flowing at a rate of 1.2 million barrels per day with a potential of 2.0 million barrels. Even at this rate there is a glut of oil on the West Coast of over 200,000 barrels per day. The glut is now transshipped through the Panama Canal at much higher transportation costs than it would obetain were an exchange with Japan initiated. The only existing plan for a West-East pipeline can accommodate only the existing West Coast glut. Therefore, if the domestic production capacity of the country is to be increased, export of excess Alaskan oil is the only reasonable course. Not only would domestic production be returned to its 1973 high, but the 800,000 barrels per day which are not being produced represent a potential of $6.336 billion per year to offset our deficit with Japan.

From my State's standpoint, export could mean new pipeline construction spending, as well as additional oil revenues, on the order of $500 million per year. The expansion

the street. This is one issue that is very clear in my State, no question about it.

I think the Senator from Michigan has answered all the real problems here. The real beneficiaries from this are going to be (a), the oil companies; and (b), the State of Alaska. Americans are going to have to pay more, we are going to have less gas, less reliable and high-quality gasoline, no question about that, and oil.

I hope that the position taken by my friend from Michigan and others will be supported and the amendment will be defeated.

Mr. RIEGLE. Mr. President, I yield 2 minutes to the Senator from South Dakota (Mr. PRESSLER).

Mr. PRESSLER. Mr. President, certain provisions of S. 737, the Export Administration Act, prohibit an export or exchange of Alaskan oil unless several stringent findings affecting oil supply security and consumer interest are made by the President and the proposal is submitted for congressional approval.

I support this committee language because it is necessary to reduce our dependence on foreign oil by encouraging domestic means of efficiency handling Alaskan oil.

There is a Northern Tier pipeline proposal now moving forward that is of real significance to my area of the United States. Its completion will mean a great deal to the long-range benefit of the Midwest States, specifically, and to the United States, generally.

I am concerned, Mr. President, that this area not be impacted adversely. That is one of the reasons why I think the committee language should be maintained.

How did we reach this sad State of affairs where we even consider an export of this vital natural resource?

How is it that, in the face of a severe crude shortage and skyrocketing prices, there are those who advocate exporting Alaskan oil through some convoluted exchange mechanism?

The basic reason, I submit, is that—early on—we failed to differentiate between the national interest and the interest of several major oil companies.

Specifically, Congress was mistakenly led to believe that a trans-Alaskan pipeline was preferable to a plan that would have brought Alaskan oil to where it is needed—the Midwest and East. And, I might add, many of the same voices that urged us to build trans-Alaskan are now equally supportive of an export.

The National Journal was correct when it described as a "great irony" the fact that, 10 years after discovering America's biggest reserve of oil and gas under Alaska's North Slope, neither the companies nor the Government have figured out where or how to sell it all. Incredibly, after spending billions of dollars to construct a pipeline in Alaska that was supposed to help meet California's needs, we find that California is unable to use all of that crude. What California cannot use—the so-called glut which currently amounts to about 300,000 barrels per day—is shipped through the Panama Canal to eager buyers on the gulf and east coasts.

Lest I be misunderstood, Mr. President, I emphasize, all available Alaskan crude is being used in the United States; the problem is the oil is not going directly to where it is needed, the Midwest and East. The additional transportation costs resulting from the longer, more costly ocean route must be absorbed by the producer. These costs cannot be passed along to the consumer because the producers already receive top dollar for every barrel of oil. This is because ANS crude is effectively free of any control, and its price mirrors OPEC prices.

In the case of Alaskan oil, the main producers are Standard Oil of Ohio (Sohio)—the same corporation that recently abandoned the plan to retrofit the pipeline from California to Texas—Exxon and Arco.

To relieve the oil companies of the burden of transporting ANS crude to the gulf coast, the administration has proposed sending the oil to Japan in an exchange arrangement where the United States would receive oil that otherwise would have gone to Japan. Producer profits will rise to still greater levels and, so goes the argument, production will increase. The economics of the situation are intriguing. In order of profitability, an export ranks first then a west-to-east pipeline and lastly shipping the oil through the Panama Canal.

An export, as opposed to the canal route, would increase producer profits by about $2 per barrel. What is more unsettling is that an export is also more profitable than transporting the oil through a pipeline. According to a recent Department of Energy study, Sohio stands to make 70 to 90 cents more per barrel by exporting than by building and using a pipeline. In short, exports will always be favored by the oil companies to the exclusion of finding more efficient means of handling Alaskan oil domestically.

And, at the same time that oil company proponents of trans-Alaska pipeline system were assuring us or California's ability to absorb full Alaskan North Slope production, they were also denying any intention of exporting ANS crude to Japan. Yet, a close examination of the record shows that early on oil companies recognized the attraction of the Japanese markets and took steps in that direction. For example, in 1970, Edward L. Patton, president of Alyeska Pipeline Service Co., submitted confidential estimates to the Interior Department targeting 25 percent of North Slope crude for sale beyond the west coast of the United States, including direct sale to Japan by 1980.

In that same year, Phillips Petroleum president, John H. Houchin, proposed that Alaska oil be exported to Japan in exchange for that country's share of Persian Gulf oil. Similarly, Atlantic Richfield quickly detected the attraction of oil sales to Japan. Rollin Eckins, Arco's vice chairman, in a 1970 presentation to the Alaskan science conference said that Japan would be willing to pay a premium for a secure supply of Alaskan oil.

In view of this history, Mr. President, some observers of oil company behavior were not at all surprised when, contrary to earlier public estimates by the oil companies, a surplus of Alaskan North Slope crude appeared on the west coast and the idea of an export was revived.

We are now told to ignore this tortuous history and instead to concentrate on the future, specifically, the need to export and to increase producer profits.

While I agree wholeheartedly that we should not make policy on the basis of exacting a pound of flesh for past transgressions, it would be equally foolhardy to disregard the clear lessons of recent history.

There are times when what is good for the oil companies is not good for the great majority of America. The legislation before us presents such an occasion.

Restricting exports, while contrary to the interest of the oil companies, is absolutely imperative if we are to stimulate those developments that will put us on the road to energy independence.

Mr. President, I urge my colleagues to support the provisions affecting Alaskan oil in S. 737—as reported by the committee—and to oppose any weakening amendments.

Mr. JAVITS. Will the Senator yield time to me?

Mr. RIEGLE. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, at the bottom of page 76 of the bill, line 25, the words appear, "otherwise subject to this subsection." For the same reason that Senator STEVENS struck them from his amendment, because it does interfere with something nobody intended to interfere with, I ask unanimous consent that they may be stricken from the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I reserve the remainder of my time. I know the Senator from Alaska wanted to use the remainder of his time.

Mr. STEVENS. Let me yield briefly to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from Alaska has 3½ minutes remaining.

Mr. STEVENS. I yield such time as he may need to the Senator from New Mexico.

Mr. DOMENICI. I shall try to be brief.

Mr. President, let me say to my good friends on the Senate floor, many of whom have argued against the Stevens amendment, that in this Senator's opinion, so long as the discussion about the energy situation in the United States continues to receive attention in the way it is receiving attention here today, we are not going to solve the energy problem. That is because most of the positions being taken have nothing whatsoever to do with American energy independence, but have to do with picking on somebody or blaming somebody or being really concerned that somebody is going to make a profit.

Let me tell you, this amendment says that we will not swap—and I call to your attention that swapping means at least a barrel for a barrel. So in the swap itself, how can you lose?

creased immigration, and import of manufactured goods, is also no simple or cheap solution to our oil requirements.

What I am suggesting here is that there are big liabilities, both political and economic, to our continued dependence on imported oil. And, because of the long leadtimes required to change this situation, we are very foolish to mortgage our future to an increased extent by selling U.S. oil to Japan, and thus increasing our own future dependence on imported oil with the political price tags and indirect costs associated with it. I urge instead that we move rapidly to increase our ability to use our own oil.

There is, however, a second problem associated with the selling of our Alaskan oil to Japan.

For years now, U.S. trade negotiators have been unhappy about the fact that the trading relationship between the United States and Japan is not only grossly out of proportion from a balance-of-payments point of view, but more importantly, they have become increasingly concerned about the structure of this trading relationship, which has increasingly taken the form of the classic colony—motherland trading relationship.

That is, cheap raw materials from the colony are traded in return for expensive processed manufactured goods from the mother country.

At the same time, the mother country prevents manufactured goods from being imported from the colony by a combination of tariffs and nontariff barriers of various kinds.

Except for specialized super high technology items, this is exactly the economic relationship which Japan has increasingly developed with the United States. And from the Japanese point of view, this is just great. Japan buys from us logs, raw grain and cereals, soy beans, cotton, coal, metal ores and scrap metal, raw skins and hides, pulp wood, et cetera. Japan runs these raw materials through her manufacturing plant, and then exports the resulting goods to the United States in the form of finished steel, television sets, textiles, et cetera.

Now, a certain amount of this is acceptable, even desirable. But when major American industries—such as the electronics and television industries—are pushed to the point where serious unemployment and structural harm is beginning to occur, then it becomes important to change the situation.

Right now, Japan is under the gun to make major changes in her own economy to permit American manufactured goods and farm products to be sold at a fair price on the Japanese market.

Our negotiators can now point to the enormous gap in our balance of payments, and rightly demand that Japan take corrective action to prevent discrimination against American manufactured goods and agricultural products in Japan.

But, if we permit Japan to purchase our oil, then although the bilateral balance of payments problems with Japan will be eased, our overall balance of payments will be worsened.

And our trade negotiators' efforts to get the Japanese economy opened up to American manufactured goods and other products will be undercut.

We will then have the worst of both worlds: A balance-of-payments problem that is worsened—but the trading partner which is causing much of our problem with its aggressive export programs and domestic protectionist measures—will be able to point to our bilaterial trade accounts and say that it is not their fault, that our balance of payments problems are with the Persian Gulf, Mexico, et cetera.

Then, more American industries will be weakened, our unemployment problems will worsen, and only the Japanese will have gained.

In my own view, Japan already profits more than she should by her relationship with the United States. The U.S. taxpayers are shouldering much of the burden of the defense of the free world, including Japan.

But our ability to continue to defend the free world depends to a large degree on the health of the American dollar.

Balance-of-payments problems are undermining this dollar, and it is a combination of energy payments and Japanese protectionism which contributes massively to the dollar's present woes.

It is, therefore, essential in my view that we prohibit the export of crude American petroleum, except under very special and controlled circumstances. We have a commitment to our allies to sell oil in the event that certain disasters should strike. We should keep these commitments, under most circumstances.

But an open-ended oil export program, in my view, is a classic case of being pennywise and pound foolish. For the sake of small economies in transport, and for the sake of slightly increased profits for the oil companies which the immediate sale of Alaskan oil to Japan would facilitate, we are endangering broader and vastly important long-term American interests.

In summary, then, I urge the Senate to exert its leadership in pushing for every possible means to keep American oil in America for Americans. Let us rapidly build the pipeline and loading facilities which are necessary to transport the Alaskan and west coast oil to the inland refineries for subsequent use by the American people. Then the question raised by this amendment will be moot, and the best interest of the American people will be served.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I know that this issue is filled with emotion. We have seen evidence of that right on the floor. It is subject to great misunderstanding in the country.

There is no misunderstanding, any longer, I believe, that we have an energy crisis. There is no misunderstanding that we need now to cut through an awful lot of things to have maximum flexibility. The problem with the bill as it now stands is that the process involving swaps would make them almost impossible. I think the administration supports this Stevens amendment because maximum flexibility is required. The Senator from Illinois supports it because I think we need maximum flexibility.

This amendment is good for the consumer, and good for the producer and, I think, is an amendment supportive of the national interest to provide the maximum flexibility that we need to face the crisis we have today. For that reason, Mr. President, I support the Stevens amendment and urge its adoption.

Mr. STEVENSON. Mr. President, I opposed the location of the pipeline in Alaska. I oppose decontrol of oil. I do not come from Alaska. And I support this amendment.

It is the policy of the United States to increase exports. It is also the policy of the United States to increase oil production. This amendment serves both of those objectives.

It only applies to increases in production from Alaska. It would only permit transfers of volumes in excess of those now flowing through the pipeline. So it cannot decrease production. By creating a market for additional production, it will increase oil production. In doing so, it will increase world oil supplies. That has the effect of putting pressure downward on the world oil price, with benefits for everybody, including the American consumer, including all the people of the United States, not just those in Alaska.

If necessary, of course, the swaps that are authorized by this amendment could be terminated. If there were ever an emergency situation or any event which interrupted the supplies or threatened shortages in the United States or any region of the United States, the swaps could be interrupted and the Alaskan oil made available.

The fact of the matter is that there is no way of absorbing the increased production that is possible from Alaska. Unless this amendment is adopted, the oil is going to stay in the ground. In the ground, it benefits no one, least of all the people of the United States. This amendment, Mr. President, is also, for those reasons, supported by the administration.

Mr. STEVENS. Mr. President, will my friend allow me to find out how much time I have left?

Mr. RIEGLE. Yes.

Mr. STEVENS. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator has 3½ minutes remaining.

Mr. STEVENS. At such time as is convenient to the Senator from Michigan, I yield to the Senator from New Mexico.

Mr. RIEGLE. I yield 1 minute to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank my friend from Michigan. I support him enthusiastically.

Mr. President, we ought to ask ourseves, what is the reaction of our own constituents? Can you imagine going out on the streets in Oshkosh and Milwaukee and saying you favor our export of oil to Japan? They would laugh you right off

usual form, and that the tabling motion be in order even though the time has not been yielded back.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, it is so ordered.

Who yields time?

Mr. STEVENS. I yield to the Senator from North Carolina first, then to the senior Senator from Illinois, and then to the junior Senator from Illinois.

Mr. HELMS. Mr. President, I thank the Senator from Alaska for yielding to me.

Recently I learned the details relating to a lack of refining facilities and transportation pipelines that has resulted in Alaskan oil not being produced or developed as rapidly as would otherwise be the case.

Specifically, I am informed that production capacity of the North Slope field is presently at a 1.5-million-barrel per-day level, but actual production is only 1.2 million barrels per day.

The stated reason for this was the lack of facilities to refine the oil on the west coast and the lack of pipelines on the west coast to carry the heavy Alaskan oil to refineries in the interior of the United States.

After assessing Senator STEVENS' proposal, I view it as only a temporary situation to be in effect only until we can build additional refining capacity on the west coast or a pipeline to carry this oil to America's inland refineries.

Having said that, I should emphasize that I do not believe that it is in America's long-term or broader interests to permit a long-term oil sales program to Japan, although there may be some temporary and short-term benefits. And I believe that it would be a great misfortune if Alaskan exports of oil to Japan result in a failure to build the pipelines and refining facilities which are so necessary to process Alaskan oil in the United States.

Let me explain why I feel so strongly about this:

In my view, the superficial economies and short-term benefits which appear to be offered by a long-term oil sales program to Japan are completely overridden by broader and longer term considerations. I am convinced that the so-called swap arrangements with Japan on a long-term basis would not be America's best interests.

In the past we have seen a certain amount of erratic behavior on the part of this administration concerning energy policy. And while I hope the administration eventually does the right thing as far as energy is concerned, I believe that it is important for the Congress to make its own views on important parts of America's energy policy crystal clear.

One of the most important aspects of today's energy policy is the whole question of Alaskan oil. Some have advocated a permanent sales program to Japan, and to other countries, because of the difficulty in transporting Alaskan oil to midcontinent refineries where it could be converted into gasoline, heating oil, and other products urgently needed by the American people.

This may be justified on a temporary basis but, I believe the Senate should make it clear that it believes that our Nation's interests would not be best served by a long-term program of sales of Alaskan oil to foreign countries.

No one knows for sure what the production potential of Alaska might be. But there is one thing upon which there is virtually unanimous agreement: Alaska has significant promise for future oil discoveries and expanded production. If America is ever to achieve a greater degree of energy independence, clearly, Alaskan oil must play a prominent role.

At present, many experts appear to believe that Alaskan oil is not being developed as rapidly as might be the case. And there are a number of bottlenecks, according to these experts. Until recently, leasing in some areas has been held up. In California, a pipeline proposed by the Sohio Co. to transport Alaskan oil to the large midcontinent oil refineries was delayed for years by the requirement for literally hundreds of permits and environmental procedures. Eventually the entire project was scrapped. And today, it appears that the full capacity of California's refineries is being used to process the limited quantities of oil now coming from Alaska and elsewhere.

It would seem to me to be prudent for the United States to be taking steps to increase its capacity to transport and process oil on the west coast.

Part of President Carter's energy program calls for the rapid exploitation of the massive deposits of very heavy grade California petroleum. Assuming this project actually happens—and I have reason to believe it may—the resulting crude oil will swamp suitable existing refining capacity on the west coast.

Rather than exporting Californian and Alaskan oil to Japan or elsewhere, I urge, as part of the President's new energy initiatives, that Governor Brown, in the interests of the Nation and in the interest of Californians, be encouraged to facilitate the construction of a pipeline to the Texas and Oklahoma refineries so that greatly increased amounts of Alaskan and heavy Californian oil can be refined and used directly by the people of the United States.

This project should be near the very top of the list of projects to be handled by the President's proposed new Energy Mobilization Board—whose very purpose is to cut through redtape on projects exactly like this one.

There are a number of reasons why I urge we follow this course of action—and refine our own crude oil rather than selling it to Japan or other nations.

In the first place, the entire rationale behind the construction of the Alaskan oil pipeline was to permit Americans to use this oil. At the time the pipeline was under consideration, environmentalists claimed that the whole pipeline was unnecessary because the oil companies planned to sell most of the Alaskan oil to Japan anyway. This was denied in the strongest terms by the American oil companies at the time, and after some delays, the pipeline, with a potential capacity of 2 million barrels per day, was actually constructed, at great cost.

Sadly, the pipeline has never to this day been used to its full capacity. Because of a lack of suitably equipped refineries on the west coast to process this oil, and the unfortunate delays which blocked early attempts to build unloading facilities and pipelines to carry the oil to the huge inland refineries, Americans have not been able to take advantage of the Alaskan oil to the extent that had been earlier envisioned.

Instead, we are importing extra oil from the Middle East, and putting added strains upon our balance of payments.

Now, what is wrong with selling Alaskan oil to Japanese?

Well, in the first place, these fields will then be rapidly exploited. Japan, like the United States, has a vast appetite for oil. So with Japan's unlimited requirements, Alaskan oil fields can become rapidly depleted. And, given the unsettled state of the world, I am not sure that this is really in American interests.

More importantly, however, it is becoming increasingy clear that oil on the international market is beginning to carry not only a heavy and direct purchase price, but also heavy additional indirect costs and political price tags. Take three recent cases:

First. The nations in the Middle East have made it quite clear that unless there is progress on the West Bank, the United States may find it difficult to obtan oil supplies in required amounts from that quarter.

Second. Nigeria recently threatened to reconsider its oil sales to the United States it we were to drop sanctions and recognize Zimbabwe-Rhodesia.

Third. Mexico has made it abundantly clear that increased access to Mexican oil by the United States will probably require the United States to permit large-scale immigration of unemployed Mexicans into the United States, and equally important, much more open access to the American market by Mexican manufactured and agricultural goods. Thus, in the case of Mexico, the United States will not only have to pay to Mexico $7 billion per year for every million barrels per day of oil that we mport, but we will also have to shoulder the additional billions of dollars of balance of payments that will come from imported Mexican manufactured and agricultural goods.

Here, there is also an indirect price tag. Increased Mexican export of manufactured goods to the United States means fewer jobs for Americans, and unless the process is carefully controlled, it also means increased unemployment and labor unrest. Finally, increased Mexican immigration in the United States also means higher demands for energy in the United States. Although every additional million immigrants from Mexico contributes in some measure to the American economy, they also obviously require additional millions of barrels of oil for the gasoline which they use to run their cars, the fuel to heat their homes, and for the energy requirements of their jobs, schooling, and so forth.

Thus, increased access to Mexican oil, with its potential double-whammy extra price tag on balance of payments, in-

Israel as far as that provision is concerned.

Subsection 4g(3) of S. 737—the Export Administration Act of 1979—provides that:

Notwithstanding the foregoing provisions of this subsection or any other provisions of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act, provided, that the President promptly notifies Congress of each such agreement.

This language exempts from the restrictions on the export of Alaskan oil contained in subsections 4(g)(1) and (2), exports to Israel under our bilateral agreement and exports to fulfill our obligations under the emergency sharing plan of the International Energy Agency.

The phrase "otherwise subject to this subsection" 4(g)(3) limits the exemption of exports to Israel to oil. Covered by this section—presently there is an exemption for Israel in the OCS Act but that applies only to agreements existing in February 1977. At present, if our commitment were activated and we had to make U.S. oil available to Israel, we believe that providing Alaskan oil would best suit United tates and Israeli interests. However, this may change over the course of our 15-year commitment. The President may decide that providing oil from another source would cause less disruption to the U.S. economy or the U.S. energy market. If the phrase "otherwise subject to this subsection" were removed from 106(3), the United States would be able to export the oil which best meets our interests.

I would like to delete the phrase "otherwise subject to this subsection." The effect of this amendment will be to allow the export of U.S. oil from any source to Israel under our bilateral oil supply agreement of March 26 and its implementing arrangements. Presently, the bill exempts just the export of Alaskan oil to Israel from the restrictions of this and previous legislation. If our commitment to Israel were activated now and we had to make U.S. oil available to Israel, providing oil from Alaska might well be the best way of fulfilling our commitment. However, over the course of this 15-year agreement, the President should have as well the authority to allow the export of oil from a non-Alaskan source if that would be most easily absorbed by the U.S. energy market and better suit the interests of the United States and Israel.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. JAVITS. Reserving the right to object, Mr. President, and I will not object——

Mr. STEVENS. This is just a modification.

Mr. JAVITS. I would like to ask Senator RIEGLE if he will do the same thing respecting any part of what is contained in the bill which relates to the same problem.

Mr. RIEGLE. I am sorry, I do not believe I understood the question.

Mr. JAVITS. The problem that Senator STEVENS is now dealing with enables the United States to fulfill its contract with Israel which runs for 15 years, even though the oil may not be Alaskan oil. That is quite a proper amendment. The question I ask is this: Is the Senator prepared to do the same thing as to the bill?

Mr. RIEGLE. It is certainly my intent to accomplish the same objective.

Mr. JAVITS. That is all I need to know. I have no objection.

Mr. STEVENS. I ask that my amendment be so modified.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 74, line 22, insert new section (g) as follows:

(g) (1) Notwithstanding any other provision of this Act, no domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to the requirements of either subsection (u) of section 28 of the Mineral Leasing Act of 1920 as amended (30 U.S.C. 185), or section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653), (except any such crude oil which (A) is exported, for the purpose of effectuating an exchange in which the crude oil is exported to an adjacent foreign state in exchange for the same quantity of crude oil being exported from that state to the United States; such exchange must meet the price standard of paragraph 2(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) The President makes and publishes an express finding that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) except for minor impacts due to quality or gravity adjustments, will have no adverse impact on wholesale or retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contract which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(iv) are in the national interest;

(v) are in accordance with the provisions of this Act; and

(vi) in the case of crude oil which is transported by pipeline over right-of-way granted pursuant to the requirements of section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653), the oil to be exported consists of volumes in excess of that which was so transported on an average daily basis during the thirty days preceding July 1, 1979; and

(B) The President submits reports to the Congress containing findings made under this subsection and after date of receipt of such report, the Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within this time period passes a concurrent resolution of disapproval stating disagreement with the President's findings concerning the national interest, further exports made pursuant to the aforementioned Presidential findings shall cease.

(C) Paragraphs 1 and 2 shall remain in effect only until July 1, 1980.

3. Notwithstanding the foregoing provisions of this subsection or any other provision of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act (42 U.S.C. 6271): *Provided further*, That, the President promptly notifies Congress of each such agreement.

Mr. STEVENS. Mr. President, I just want to make a brief statement and then yield to two of my friends who wish time.

In answer to the Senator from Montana, I call attention to the provisions which state categorically that the President must make and publish an expressed finding that such an exchange will not diminish the total quantity of petroleum refined within, stored within, or legally committed to be transported to, or sold within the United States.

The charge that this would in any way reduce the supply of oil is fallacious. As a matter of fact, until we are certain that we can transport this oil once it is produced, the 800,000 barrels a day that could be increased in this next calendar year will not be available in the United States.

I support the Northern Tier line. I am surprised at my friend from Montana. The production must be there before it can be financed.

Mr. MELCHER. Will the Senator yield?

Mr. STEVENS. I am delighted to yield to my friend from North Carolina for 1 minute or whatever time he needs, 2 minutes, and to the Senator from Illinois after that. Again, we are doing so without the Senator from Michigan losing his right to the floor. I am prepared, following their comments, to agree that we would vote on the tabling motion of the Senator from Michigan at 5 minutes of 3 with neither of us yielding back the remainder of our time, if that is agreeable.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. STEVENS. I yield.

Mr. ROBERT C. BYRD. I have discussed this with Senator BAYH, who indicates it would be agreeable with the Senator from Michigan (Mr. RIEGLE).

I ask unanimous consent that a vote occur on the motion to table at 5 minutes to 3.

Mr. STEVENS. If it is on the condition that we evenly divide this time, because I have commitments to Senators STEVENSON, PERCY, and HELMS. I shall take no more time myself.

Mr. ROBERT C. BYRD. Yes, with the understanding that the 15 minutes be equally divided and controlled in the

ESTIMATED TYPICAL TAX-PAID COST AND PROFIT AND ALASKAN NORTH SLOPE CRUDE OIL

[In dollars per barrel]

	Delivered to west coast					Delivered to gulf coast				
	4th quarter, 1978	1st quarter, 1979	April	May	June	4th quarter, 1978	1st quarter, 1979	April	May	June
Delivered price	$12.65	$13.76	$14.41	$15.44	$16.80	$13.30	$14.25	$14.75	$16.75	$17.55
Less: Shipping cost [1]	.90	.95	.95	.95	.95	3.05	2.90	2.95	2.90	2.85
Valdex f.o.b. price	11.75	12.81	13.46	14.49	15.85	10.25	11.35	11.80	13.85	14.70
Less:										
Liability fund	.05	.05	.05	.05	.05	.05	.05	.05	.05	.05
Pipeline loss	.05	.05	.05	.05	.05	.05	.05	.05	.05	.05
Pipeline tariff	6.20	6.22	6.22	6.22	6.22	6.20	6.22	6.22	6.22	6.22
Wellhead price	5.45	6.49	7.14	8.17	9.53	3.35	5.03	5.48	7.53	8.38
Less:										
Royalty (12.5 percent [2])	.60	.73	.81	.94	1.11	.41	.55	.60	.86	.97
Severance tax [3]	.67	.75	.82	.94	1.10	.67	.67	.67	.87	.97
Property tax	.17	.17	.17	.17	.17	.17	.17	.17	.17	.17
Field operating cost	.44	.44	.44	.44	.44	.44	.44	.44	.44	.44
Field financing cost	.22	.24	.24	.24	.24	.22	.24	.24	.24	.24
Depreciation [4]	.85	.85	.85	.85	.85	.85	.85	.85	.85	.85
Oil profit before income tax	2.50	3.31	3.81	4.59	5.62	1.19	2.11	2.51	4.10	4.74
Less:										
State income tax (9.4 percent)	.24	.31	.36	.43	.53	.11	.20	.24	.39	.45
U.S. income tax [5]	1.20	1.52	1.75	2.11	2.59	.57	.97	1.16	1.89	2.18
Oil profit after tax	1.06	1.48	1.70	2.05	2.50	.51	.94	1.11	1.82	2.11
Pipeline profit [6]	1.20	1.30	1.30	1.30	1.30	1.20	1.30	1.30	1.30	1.30
Overall post-tax profit	2.26	2.78	3.00	3.35	3.80	1.71	2.24	2.41	3.12	3.41

[1] Shipping costs to the Gulf of Mexico often involve producers' internal charges and are estimates.
[2] Assumes average 6.5 cents deduction from wellhead price to cover collection and transport to Pump Station 1 before calculation of royalty. This deduction has been challenged successfully in the courts by the State of Alaska but companies are continuing to take deduction on tax returns pending appeal.
[3] 11.7 percent in 1978 and 11.54 percent in 1979, with a minimum 66.5 cents per barrel.
[4] Includes depreciation and amortization.
[5] 48 percent in 1978 and 46 percent in 1979.
[6] After tax. Estimate based on average 1,100,000 bbl/d throughput in 1978 and 1,200,000 currently.

Mr. RIEGLE. I yield 1 minute to the Senator from New Hampshire without losing my right to the floor.

Mr. DURKIN. I thank the Senator from Michigan and rise in support of the provisions my distinguished colleague has placed in the S. 737, Export Administration Act of 1979. I appreciate his efforts in opposing the transfer of Alaskan oil to our Pacific competitors under any sort of arrangement. Alaskan oil and Alaskan resources must be preserved for Americans. We must move Alaska's oil east to the New England market now. It is as simple as the rules in cards. I lost a lot of money in playing cards as a young gentleman, in the process of learning that you do not bet on the next card.

The President stood in Portsmouth High School and promised 240 million barrels of home heating oil would be reserved by the 1st of October. They are 20 million barrels behind at this time. Notwithstanding all the assurances of the Department of Energy, the President, and whoever is in the Cabinet today, we are running short of home heating oil this winter in the Northeast.

We have the Alaskan pipeline. If it had not been for the Department of Energy we would have had a pipeline now, or it would have been under construction, to bring that oil east, to the midwestern refineries and to the east coast. To send the oil overseas in the hopes of making up a replacement somewhere else is the height of folly.

I need remind no one in this Chamber that toughening the export restrictions on this valuable commodity—Alaskan oil—is clearly in the national interests. At a time when Americans are suffering from long gasoline lines and reduced stocks of home heating oil, it would be totally unreasonable to export Alaskan oil.

There now exists only a very weak restriction on the export of Alaskan oil. The strong check on the export of Alaskan oil contained within the Export Administration Act expired on June 22. Unless the Congress moves to restore and strengthen these restrictions, it is likely that the President will seek ways to send Alaskan oil to Japan. Permitting such exports, which are being disguised as a "swap" of oil, would be contrary to a sound energy policy and particularly harmful to New Hampshire and New England.

Alaskan oil must be saved for Americans and not shipped to some distant shore to deplete further our declining domestic supplies of energy. I realize that there is a problem in getting the Alaskan oil to the east coast, the area of the country that is perhaps most in need of this oil, but exporting the oil is not the way to solve this problem.

We could be receiving much more of this oil on the east coast if we had a pipeline from the Pacific Northwest to the East. However, ever since the oil started to flow through the trans-Alaska pipeline system, the major oil companies have resisted efforts to build this pipeline so that they might export this oil to the Far East and increase their profits. Passage of this bill will halt this campaign in its tracks and aid considerably in getting this pipeline and other needed facilities built. We must convince the President that the Congress is resolute in its conviction that Alaskan oil not be exported.

Unfortunately for my constituents in New Hampshire and the people of the Northeast, the trans-Alaska oil pipeline has become a monument to the lack of energy planning that existed in this country for so long. The Congress allowed the pipeline to be built in the wrong place at the insistence of the oil companies who naturally assumed that they would be able to ship their product to distant countries. The oil companies stand to make billions of dollars in excess profits by selling the oil to Japan, getting the world price for their product and avoiding the costly transportation charges to send the oil to those areas of the United States where it is really needed. We cannot allow the majors to blackmail the Federal Government into allowing the export of oil because of the shortsightedness of our energy policy in the past. We must not become the captive of those who seek to profit from the crisis rather than solve it.

Mr. President, I would urge all of my colleagues to refuse steadfastly to send American oil out of this country. We must undertake a national commitment of building the necessary refineries and pipelines on the west coast so that this oil can be used for our own internal needs, not the needs of a foreign country. We spend almost $50 billion annually to purchase costly imported oil. Does it make any sense whatsoever to export this oil so that we can increase our dependency on the OPEC nations.

My home State of New Hampshire is at the empty and expensive end of the energy pipeline. The export of Alaskan oil will make a bad situation worse. I urge you to retain this provision in the export bill.

Mr. RIEGLE. I wonder if we can reach a time agreement that everyone could understand.

UP AMENDMENT NO. 431, AS MODIFIED

(Purpose: To clarify provisions restricting export of Alaskan Oil)

Mr. STEVENS. Mr. President, on my time, and I think the Senator yielded to me on that basis, I wish to modify my amendment in section 3, line 4, to delete the words, "otherwise subject to this subsection." That is on the last page.

The modification of this amendment is being made at the request of the State Department to insure that there is no impinging upon the agreement with

to. Such an action would remove all incentive for the construction of pipelines that can efficiently and equitably distribute Alaskan oil throughout the Nation. It would remove all incentive for increased refinery capacity. It can only deepen our dependence on other nations for our energy supplies, increase our susceptibility to economic disruption and political blackmail and deplete a precious and shrinking national resource that we desperately need for ourselves. Further, it will only serve to increase the confusion and skepticism of the American people about the nature of our energy problems and our ability to deal with them equitably.

Mr. President, I hope the Senate will decisively defeat any attempts to delete or weaken the language in this bill restricting exports of Alaskan oil and put this issue behind us once and for all. By so doing, we will send a clear message to all concerned that this Congress wants to see Alaskan oil used at home. This is essential for stimulating investment in new refining capacity and pipelines. I suggest that it is the simplest, most direct and fairest way to make headway on the need to move the vast energy sources of Alaska to the lower 48 so that they will truly serve as a replacement for imported oil, and not as a stimulus to increased imports.

Mr. President, I have just a few additional remarks so we can move on to try to get a vote on this issue. I am hopeful that the Senator from Alaska and the Senator from Michigan can resolve this so we can get about voting on this and move to other items.

It seems to me that at this particular time we are being asked again to decide whether the energy policy of this country is going to be based on what is in the national interest or whether it will be based on what is good for a small vested interest. Some of us stood on this floor when the pipeline issue in Alaska was being debated. We did not say, "Do not build a pipeline," or that we were more concerned about the environment, but what we said was that when the corporations of this country moved to make a major investment to get Alaskan oil to the lower 48, it ought to be distributed in a way to meet the needs of all of our citizens. The pipeline should have ended in the center part of the country, so that States east and west could benefit from it. It does not do any good to say, "I told you so," about the glut. I do not like people who say that. But right now it is time to reinforce what we said then; that if we are short of energy it does not make any sense to take Alaskan oil and ship it to Japan in exchange for Iranian, Indonesian, Kuwaitian, Mexican, or Nigerian oil that we can get anyhow, or buy foreign oil to put into the strategic petroleum reserve in Louisiana. That makes about as little sense as anything we have been asked to do.

We need to have a permanent way to distribute this petroleum. We need to be utilizing that pipeline 100 percent. The price Alaskan oil producers are getting, thanks to OPEC, has increased significantly, providing more than enough incentive to go out and produce more oil on the North Slope.

We need to do what the Senator from Montana, the Senator from Michigan, the Senator from Indiana, and others have been trying to do, get a pipeline built so that Alaskan oil can efficiently get to our part of the country, and the eastern part of the country, instead of being confined to the west coast.

Permitting Alaskan oil exports is the wrong signal to send to the people of this country right now. They do not believe we have an energy problem. They think they are being ripped off by the oil companies. What do we do? We confirm that by doing what the oil companies want us to do with Alaskan oil.

EXHIBIT 1

ALASKA PROFITS BOOM AS OIL PRICES TRACK OPEC'S UPPER TIER

Oil companies producing Alaskan North Slope crude have increased their profits by more than 70% thus far this year by tracking the leading edge of OPEC price increases. After-tax profits on Alaskan sales to the United States West Coast and Gulf Coast markets have soared past $3 a barrel and could reach as much as $4.10 (an 85% jump) when the latest boost is fully applied, according to a Petroleum Intelligence Weekly analysis. Alaskan crude oil prices are effectively free of U.S. price controls and can be sold at world market levels, delivered to West or Gulf Coast markets. The price of Alaskan oil at the wellhead is now between $9.50 and $10.50 a barrel and could move as high as $12.93 under present price control rules.

Alaskan crude oil prices have traditionally been linked with Saudi Arabian Light crude (with some adjustments for quality). But producers are clearly not following Saudi price "moderation" this year. In fact, one company openly endorses a higher $17 a barrel "de facto" price for marker crude, rather than the official $14.55. The higher de facto marker price was first proposed by Algerian Sonatrach's Nordine Ait-Laoussine (PIW May 28, p. 3) and other African OPEC nations and North Sea producers have raised their prices accordingly. North Slope producers are following suit, and one key seller (ironically, a Sonatrach customer) says "Ait-Laoussine's view of the world isn't all that crazy."

Higher Alaskan prices are emerging from a rough-and-tumble of hectic price moves in recent weeks. While the specifics vary depending on buyer and seller, prices are up as much as 40 percent over end-1978, an increase of more than $5 a barrel on both the West and Gulf Coasts. Buyers say Sohio has been the most aggressive in seeking price increases (it has 52.6 percent of the North Slope's 1.22-million b/d, while Exxon and Arco (with 20.6 percent each) are said to be more "moderate." Last year when crude oil was in surplus, Alaskan crude buyers put producers in a squeeze, forcing substantial price reductions "Those that squeezed hardest then are probably regretting it most now," a supplier notes

The target price on North Slope contract sales to West Coast buyers is now about $17.80 a barrel. That's $2.00 a barrel higher than the theoretical delivered price of "cheap" Arabian light crude, but a real bargain compared with alternative imported crude supplies. By comparison, North Slope crude, last December, was selling for $1.30 less than the landed price of Saudi Arabian Light. "Even if you could get extra Iranian or Kuwait or Abu Dhabi crude at official prices—and you can't—Alaskan looks good Compared to $35 spot crude, North Slope is a steal at $17.80," according to a West Coast refiner.

At a $17.80 selling price on the West Coast, producers would reap an overall profit of $4.11 a barrel after tax, PIW estimates. That's at least 40¢ more than the profit possible on sales to the more distant Gulf Coast markets and explains why producers are moving to boost West Coast sales. Volumes are already up to 875,000 b/d, more than anyone originally expected, and the companies now talk confidently of selling 950,000 b/d in that market as total North Slope production rises to 1.4-million b/d later this year. The limitation is the ability of California refiners to handle relatively high sulfur Alaskan, though this has not proved a major obstacle in recent times. Demand is strong for the crude's larger fuel oil fraction, and refiners are a lot less picky now that crude is short.

Alaskan suppliers are clearly not interested in selling to Gulf Coast buyers at the moment and have cancelled many deals as soon as contract terms allowed. Some have even refused offers to "fully match" West Coast prices, PIW understands. The nominal Gulf Coast selling price sought by some suppliers is now about $18.55 a barrel, leaving producers a very substantial $3.71 after-tax profit. This price is basically connected with Mexico's pricing. One buyer tells PIW: "The Saudi price isn't the basis for the Gulf Coast any more; we're watching Mexico." The big $3 jump in Mexican prices April 1 (to $17.10) was largely the basis for the $2 May jump in Alaskan prices at the Gulf. Much of the Alaskan crude moving to the Gulf is part of exchange deals involving higher quality imported crudes. A large volume also moves to the Virgin Islands refinery of Amerada Hess.

The following tabulation shows PIW's analysis of costs and profits on North Slope oil production based on prices asked and paid in early June. But it doesn't reflect the latest $1 a barrel that North Slope sellers are seeking and West Coast buyers will probably pay. Profits are shown on both crude oil production and the Alaskan pipeline operation, with overall margins presuming an equal share in both sectors (though shares vary among the companies). PIW has selected "typical" prices for each time period, though there are substantial differences due to the confused nature of the market (prices were changed in mid-quarter and even mid-month). The "June" price was typically asked by sellers early this month, though some are still selling for much less. In May, for example, the prices under Gulf Coast contracts varied between $16.38 and $17.10 a barrel.

minish the quality or quantity of petroleum available in the United States and that such exports would be in the national interest.

In 1976, the Alaskan oil problem was addressed once again when the Congress passed the Alaskan Natural Gas Act. A provision in that bill, sponsored, I beileve, by my colleague from Montana (Mr. MELCHER), required the old Federal Energy Administration to recommend a means of expediting the construction of new pipelines designed to distribute Alaskan oil in an equitable manner around the country. Early in 1977, I joined with Senator MELCHER and 14 other colleagues in urging the FEA to live up to its statutory responsibilities. Unfortunately, decisive recommendations were not forthcoming, although FEA did acknowledge that several suggested pipeline proposals were technically feasible and could be made operational within a few years.

Impatient with the clear desire of the oil companies to export Alaskan oil, and the foot dragging on this issue downtown, and, in the face of rumors that possible oil swaps with Japan were in the offing, in May of 1977 I joined with many of my colleagues, who are today supporting the tough provisions in this bill, to prohibit, outright, any export of domestic oil. While our amendment failed to pass the Senate, it carried in the House, with the result that restrictions on Alaskan oil imports placed in the 1973 trans-Alaskan pipeline authorization bill were strengthened.

These new provisions required a finding beyond that in the 1973 bill—that any swaps or exports of Alaskan oil would not result in increases in consumer prices as a consequence of their implementation. Further, it provided that one House of Congress could override any Presidential decision to export or swap Alaskan oil.

Finally, Mr. President, almost 2 years ago, I joined with Senator MELCHER of Montana in introducing legislation designed to stimulate constructon of pipelines to carry surplus Alaskan oil from the west coast to the interior of our country. This bill was meant to expedite Federal permitting processes, better coordinate Federal and State permitting, make these projects a top priority in Federal agencies with jurisdiction over interstate pipelines, and provide adequate, but not protracted, opportunities to challenge these projects in the courts. In other words, our legislation was an attempt to free ourselves from bureaucratic redtape and delay.

Last fall, a modified version of this bill was incorporated into the National Energy Act. The studies that bill required are now in preparation. In fact, the Department of Energy has just released its findings, and was expect the President to recommend one or more pipelines for expedited Federal procedures by the year's end. Loosening export restrictions now, when the administration is ready to act, would be exactly the wrong signal at the wrong time.

Mr. President, permitting Alaskan oil exports now is the best way I know to make sure that these proposed pipelines to carry oil east will never be built. The more we procrastinate in providing for the redistribution of Alaskan oil, the heavier the pressure from the oil companies will be to export it. Let us not forget that back in 1973, the oil companies denied that there would be an oil glut on the west coast, or even that they had any intention of exporting any oil. But, clearly, this has been their preferred option all along. This lingering hope has slowed investments in increased refining capacity on the west coast, and made investors leery of backing proposed west-east pipeline projects.

Mr. President, the most sensible way for us as a nation to take advantage of Alaska's mammoth hydrocarbon reserves is through increased refining capacity on the west coast and constructiton of west-east pipelines. Rather than viewing swaps, as the administration does, as an acceptabale option in the event that these goals are not accomplished, it is high time that we here in Congress make it clear, once and for all, that exports will not be permitted. A clear signal on this issue will do more to remove uncertainty in the private sector about the wisdom of investing in these projects, than hours of moral exhortation. To my mind, we have already wasted 6 years on this. I say it is time to send a message loud and clear to all those watching these deliberations: "There will be no exporting of Alaskan oil so get on with the job."

BALANCE OF TRADE

I think it is also important, Mr. President, that we look very closely at one additional argument made by those who would allow for oil exports—the supposed positive impact that they would have on our overall balance of trade. I have a great deal of trouble accepting the argument that exporting a scarce and precious commodity is the best way to deal with our admittedly troublesome trade deficit with Japan. As a Senator from a State that is desirous of exporting both agricultural and manufactured products, I have spent a good deal of my time recently pondering this situation. I would suggest that exporting Alaskan oil offers more a seductive remedy or "quick fix" for our present trade problems with Japan than a well thought out proposal for addressing this legitimate concern. This problem must be addressed in a more efficient and effective way than by shipping American oil to Tokyo that will be desperately needed in Northern Tier States when the Canadians cut off their oil exports to us in 1982 and which could be used in Indianapolis, where the major oil supplier for that metropolitan area almost had to shut down this winter because of the disruptions in the world oil market. Events in the past 4 months have demonstrated that we can reduce our trade deficit through enforcement of fair trade laws and an aggressive trade negotiating strategy to open more of the Japanese public and prvate market to U.S. exports.

With the perseverence of our trade negotiators, Mr. President, we have seen the dollar recover against the yen, sharp reductions in steel imports from Japan and at least some promise through multilateral trade negotiations that Indiana farmers will be able to export more soybeans and other agricultural products to Japan.

Mr. President, this is certainly not to suggest that our trade problems with Japan have been solved—far from it. It is, however, to recognize that progress can be made on these issues in a way that can have a beneficial long-term impact on strengthening the dollar abroad and defeating inflation here at home without mortgaging our energy security. We can do this without shedding a drop of U.S. oil, which should be used to fuel our own steel mills, and the tractors on our family farms, and not in Japan.

In closing, Mr. President, I again strongly urge my colleagues to support the language the Banking Committee has put in the bill. As I said earlier, it is hard for me to conjure up any circumstances under which I think we should be exporting Alaskan oil. To my mind, the conditions set in this bill regarding exports—that they will not diminish the quality or quantity of oil in the United States, that they will result in lower costs to American refiners within 3 months, at least 75 percent of which will be passed on to American consumers, and that they could be terminated in the event of an interruption of U.S. oil supplies—are absolute minimums necessary to even consider exports. Should the President find that exports would meet these conditions, the Congress would still have an opportunity to evaluate this judgment and both Houses would have to concur in this decision.

It seems to me this is an entirely appropriate exercise of congressional oversight—something we should be doing more of.

Mr. President, at a time when we are asking the American people to recognize our serious energy problems, and asking them to dig down deeper into their pockets and pay more for energy, and asking them to turn down their thermostats and drive their cars less, I do not believe we should give American oil producers the opportunity to export nearly half a million barrels of oil per day to Japan so they can make even greater profits. And I believe that is what this fight boils down

would also allow increased production from proven reserves, as well as expanded programs of exploration.

Many months ago I wrote President Carter expressing my concern about the energy policy and urging export. I pointed out that North Slope oil is of no use to the United States, either in trade, in domestic consumption, or in an embargo emergency, if the infrastructure to bring it to market does not exist. That domestic infrastructure does not exist today, and it will not until its cost can be justified. The West Coast oil glut makes it impracticable now to expand the pipeline to full capacity. Export to Japan would make the expansion possible.

I continue in those sentiments and strongly oppose the export prohibition contained in S. 737.

● Mr. INOUYE. Mr. President, in your committee report on S. 737, specifically on page 14, within the section of the report pertaining to the export of Alaskan crude oil, we are told that the committee feels that there should be increased refinery capacity on the west coast, especially capacity which will be able to utilize Alaskan crude oil and produce unleaded gasoline and other light transportation fuels. We are told on that same page 14 that the committee believes that—

The Department of Commerce, should in carrying out its responsibilities under Section 4(g), review and revise, as necessary, those regulations concerning the export of petrochemical feedstocks, including naptha (sic), refined in new or reconfigured refineries. For example, the Department should not interpret any provision of S. 737 in a manner that would preclude the export of petrochemical feedstocks, including naptha (sic), if such export would facilitate the construction of a new refinery designed to produce unleaded gasoline or other light fuels, and if domestic markets for such products are not readily available or economically feasible. The Department should further take into account the need for such projects to receive commitments regarding the future issuance of export licenses.

In my State of Hawaii, a refining company which has historically processed 100 percent imported crude oil has been seeking Alaskan crude oil to use in a projected expansion of its refinery capacity. The use of Alaskan crude oil in the expanded portion of this refinery would stimulate the use of domestic oil in Hawaii, which has been almost 90 percent dependent upon foreign sources for its crude oil.

Hawaii has a heavy demand for transportation fuels—jet fuel, gasoline and diesel fuel—for its tourist-oriented economy and has minimal needs for residual fuel oil. The fuel balance situation in Hawaii is further compounded by the military needs for the same fuels. The refineries in Hawaii are unable to make a sufficient quantity of required transportation fuels without producing an excess of other products especially residual oil.

Due to the composition of available Alaskan North Slope crude oil, its use in Hawaii's refineries would result in the production of high sulphur residual fuel oil as a by-product of the refining process. United States environmental restrictions preclude the marketing of high sulfur residual oil on the west coast, therefore, the only market available for residual fuel oil of such a sulphur content—1.74 percent sulphur by weight—would be in the export market.

I believe that we can help to stimulate production of domestic crude oils, provide products which meet stringent environmental regulations to U.S. firms and provide additional fuels of the types required to meet both civilian and U.S. military defense needs in Hawaii. This can be accomplished by utilizing Alaskan crude oil in incrementally increased refinery capacity.

I, therefore, submit that the intent of the committee as outlined in the report language on page 14 would be enhanced by the addition of "refinery by-products including high sulphur residual fuel oil," to the provision instructing the Department of Commerce in carrying out its responsibilities under section 4(g) to review and revise, as necessary, those regulations concerning the export of petrochemical feedstocks, including naptha refined in new, or reconfigured refineries and that this provision should be applied to expanded as well as new or reconfigured refineries. Is that consistent with your view?

Mr. STEVENSON. The senior Senator from Hawaii is correct. We want to encourage the utilization and refining of Alaskan crude in west coast and Hawaii refineries and the export of certain by-products in surplus in our western domestic markets should be assured. For example, the Department should not interpret any provisions in S. 737 in a manner that would preclude the export of refinery byproducts including high sulphur residual oil, petrochemical feedstocks, including naphtha, if such export would facilitate the construction of a new or expanded refinery designed to produce unleaded gasoline or other light fuels, and if domestic markets for such products are not readily available or economically feasible. The Department should further take into account the need for such projects to receive commitments regarding the future issuance of export licenses.●

PRESERVING ALASKAN OIL FOR THE UNITED STATES

● Mr. McGOVERN. Mr. President, I rise in support of maintaining the existing language of the Export Administration Act amendments as reported by the Committee on Banking, Housing, and Urban Affairs.

In light of the enormous implications which Alaska oil exports would have on our precarious petroleum supply picture, we cannot condone either exports at this time or give the President complete authority to authorize such exports.

Congressional control is essential.

The basic underlying premise of the Export Administration Act is to protect the domestic economy from an excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal demand. This policy has become more important today than at any other time since this act was first implemented 10 years ago.

Clearly, the intent of Congress when we passed legislation to provide for the transportation of Alaskan oil, was to mandate that Alaskan crude would be used domestically—to ease our shortages, reduce our dependence on foreign imports, and to assist in restoring our devastating balance-of-payments problem.

Both the congressional intent of this legislation and U.S. policy under the Export Administration Act, as well as our energy security objectives would be dangerously jeopardized by any attempt to export Alaska North Slope oil at this time.

In point of fact, the administration, in 1977, rejected the option to exchange surplus North Slope crude with Japan, despite the anticipated transportation savings. The administration cited very convincing reasons for their decision—including the fact the consumers would probably not realize any benefit from the anticipated transportation savings.

A recent GAO report stated that,

Given the uncertainty and concerns associated with the exchange agreement as outlined above, in the interim, continued shipment of oil through the Panama Canal to the Gulf and East Coasts would appear to be the most sound course of action.

I urge my colleagues to support the existing policy and language contained in the Export Administration Act.●

ALASKAN OIL AND ENERGY INDEPENDENCE

● Mr. CHURCH. Mr. President, with this bill we have the opportunity to help place our country on the road to energy independence. Alaskan oil is a vital part of our Nation's energy strategy because it represents over 13 percent of our domestic reserves. Congress has played a part in each stage of the development Alaskan oil. Congress approved the route for the trans-Alaska pipeline; Congress provided the necessary right-of-ways; Congress lifted price controls to stimulate production and now Congress must decide if we are to keep the oil for domestic use or export it overseas. It would be tragic to have gone to such enormous effort to develop this vital resource only to have it slip through our fingers.

Recent OPEC price increases have spurred another round of inflation. Each new economic forecast projects a recession. I am concerned that very soon the Senate will be confronted with inflation and rising unemployment as our people are thrown out of work as business feels the shock of the latest OPEC price squeeze. We need an energy strategy before it is too late; a strategy that protects our citizens from reliance on the instability of the world oil market; a strategy that provides workers with job security not affected by Iranian revolutions or Middle East hostilities. A central part of any such strategy is the full development of our own domestic energy supplies, including Alaskan North Slope oil.

Three steps should be taken to fully utilize North Slope oil supplies. First, we should bar the export of Alaskan oil. Second, we should encourage west coast refineries to retrofit their facilities to handle Alaskan heavy crude. Third, we should improve and secure our delivery of Alaskan crude through the development of pipelines to carry it to inland refineries that need it.

By acting to ban the export option we

will create an incentive for producers to invest domestically in pipelines, and also to retrofit their refineries to handle larger volumes of North Slope oil. When the trans-Alaska pipeline was built, the oil companies were promising to make the investment required to retrofit west coast refineries to handle Alaska crude. Those investments have not been made, because the oil companies have never abandoned their desire to export North Slope oil at OPEC cartel prices to foreign purchasers.

The combination of increased refinery capacity for Alaskan crude and the development of a pipeline would provide us with the maximum energy security obtainable from Alaskan oil. The proposed northern tier pipeline would cross over our oil-starved Northern States making connections to deliver Alaskan crude to 66 refineries in 14 States with a total capacity for more than 4 million barrels of oil per day.

The United States relies on imported oil for nearly half of its petroleum needs. Our vulnerability in the event of an embargo, an international crisis, or a prolonged cutoff by one of our major suppliers has increased daily. Despite this serious predicament, the multinational oil companies are advocating the export of Alaska oil on the grounds it would yield greater profit for them if they could sell it abroad.

When the Senate Banking, Housing, and Urban Affairs Committee reported this bill, it clearly indicated that energy security was more important.

The American people fully expected that production of oil from Alaskan fields would relieve some of our dependence on imported crude oil. The hazards of that dependence, which has actually increased since production began in Alaska, are vividly evident today in the shortages suffered in California and other areas. Proposals to export Alaskan oil, in exchange for Mexican or Persian Gulf crude oil, will not serve to reduce our need for imported oil . . . Once West Coast refining capacity is increased, the East-West pipelines are built, the United States will have a little more protection from the vagaries of international oil price increases and the attendant political and economic consequences. In view of this, the Committee feels that this amendment serves a national purpose and will have a positive effect on efforts to rebuild our domestic petroleum infrastructure.

The need for us to develop a stable Alaskan oil supply and delivery system is evident. We must reduce our dependence on foreign oil. We cannot accomplish this goal if we export American oil. I urge my colleagues to join me in supporting the oil export restrictions contained in this bill.

The amendment offered by the Senator from Alaska (Mr. STEVENS) should be rejected.●

● Mr. DOLE. Mr. President, as we all know, recently the President determined that the United States must establish a positive energy program, based on responsible programs and strong leadership. The key in his decision to activate such a policy was to seek a cut in the level of imported oil, and at the same time insure that significant incentives for domestic production be provided.

In Alaska, however, the search for domestic oil was successful in the early 1970's and as many of my colleagues here in the Senate may recall, the Federal Lands Right-of-Way Act of 1973 provided for construction of a trans-Alaska pipeline to bring the massive amounts of crude from the North Slope to the lower 48 States. Unfortunately, this crude must be shipped to refineries of the east coast due to the shortage of refining capability of the west coast. This is one reason for the "glut" of oil on the west coast, and also for the high cost which consumers now pay.

SWAPPING OF ALASKAN OIL

The export bill reported by the Banking Committee makes it impossible for the United States to effectively deal with this "glut." Under the amendment offered by the Senator from Alaska, reasonable restrictions on the exportation of Alaskan crude through swapping could occur. This could only be done, however, in the national interest and prove to be of no adverse effect on the American consumer.

This amendment will not allow foreign sale, but permit exchanges or swaps of oil which would effectively and efficiently reduce our oil costs, and at the same time minimize the current inefficient and wasteful system of shipping Alaskan oil through the Panama Canal where it is shipped to the gulf coast and on east.

IMPACT OF THE PANAMA CANAL

The Senator from Kansas believes that serious consideration should be given to this amendment if only for the cost factors alone. The passage of the Panama Canal Treaty last year by this body not only alters our international position with the South American nations, but also alters our domestic affairs, particularly in regards to its impact on our energy supplies.

The Senate will soon be taking up the implementing legislation for the Panama Canal Treaty, and what will be raised in this measure will be costs and who will bear them. One issue that has already been made very clear has been the sharp increase in toll rates for the United States in use of the canal for transit. This is of enormous concern to this country's energy problem—due to the passage of tankers carrying North Slope Alaskan crude.

Up to 500,000 barrels per day of Alaskan crude oil is shipped through the canal to gulf coast refineries. These refineries supply the east coast with half its requirements for refined petroleum, and the proposed toll increases of 30 percent will drastically affect prices of heating oil and other products just prior to this 1979–80 winter season. This Alaskan crude is necessary to keep the refineries operating at a more economical capacity, and supplies 7 percent of the petroleum supply itself; therefore any price increase will immediately be felt by the American consumer.

In light of the ramification of this administration's foreign policy, it is my hope that we will realize this past mistake and prevent ourselves from continuing to be locked in by decisions that time has proved to be unwise and uneconomical. We must have the flexibility to swap our Alaskan oil to Japan and avoid the pitfall of our past Panama Canal strategy. Our west coast refineries unable to handle the heavy North Slope oil, can make use of the lighter oil to be swapped with Japan, and at considerable energy savings for all Americans.

SOLVING OUR TRADE IMBALANCE

Our trade imbalance with Japan is responsible for about $12 billion of our $30 billion annual deficit, nearly as much as our oil deficit. Obviously, it is an area on which we must focus immediate attention—perhaps as much as we are now on the oil situation. Oil imports do not put Americans out of work, but Japanese imports do. Through the passage of this amendment, perhaps we can help solve these problems and reflect the concern that we are acting for what is best for our national interest, rather than what is convenient or consistent with failed policies of the past. Time has shown we made a mistake in our assumptions with the Panama Canal Treaty. This Senator believes that our policy in allowing for the swap of Alaskan oil would be wiser and beneficial for the American people.

DECISION TO SWAP

In the future, should a swap be proposed, that decision would be a matter for the Executive and Congress. Some swaps would be useful, others not. However, this amendment would provide flexibility for the Executive to propose swaps which may become necessitated by future events.

The increasing production from the North Slope will not only reduce this Nation's dependency on the OPEC cartel, but also increase the world's available supplies. Our net oil imports would be reduced and higher Federal tax revenues result.

In emergency, a swap would be terminated and the security of the Nation would not be threatened.

BENEFIT THE NATION

Undoubtedly, Mr. President, passage of this amendment will benefit this Nation at a time when relief is desperately needed. The costs of drilling in Alaska would be reduced, transportation costs would be minimized, and of particular importance, such swaps would bring the nations of Japan and Mexico closer in relationship with the United States. The Senator from Kansas is pleased to join in cosponsoring this amendment by the distinguished Senator of Alaska, and urges the Senate to act affirmatively on this measure.●

● Mr. HAYAKAWA. I am very concerned with the provision in this bill which would tighten existing restrictions on exports and thus preclude any type of oil exchange with Mexico and Japan.

Currently, California is suffering from a glut of sour heavy oil because it does not have the refining capacity to handle the high sulphur Alaska crude. There is no room for storage on the west coast and no pipeline to send the excess to needy refineries in the Midwest. Therefore, in many instances, producers are leaving

oil in the ground instead of paying the exhorbitant cost of shipping excess supplies through the Panama Canal. Certainly, construction of a pipeline or refinery retrofitting would be the ideal solution. However, both of these are long-range solutions and continue to face innumerable regulatory and environmental barriers.

The quickest, most effective way to solve this problem is to allow the excess oil to be shipped directly to Japan in exchange for the sweet, light Mexican crude which would be shipped to our Atlantic and gulf coast ports. The United States would not lose one drop of oil, and it would result in transportation savings of approximately $2 per barrel. It would help diminish our trade deficit with Japan and strengthen ties with Japan and Mexico. We must not deny the administration the flexibility of allowing such a swap which would end the disruption of the California oil industry, and benefit the Nation.●

Mr. RIEGLE. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. Under the previous order, a motion to table is in order at this time.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Oregon (Mr. HATFIELD), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. DURENBERGER) would vote "yea."

The PRESIDING OFFICER (Mr. LEVIN). Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 52, nays 30, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—52

Baucus	Bumpers	Church
Bayh	Byrd, Harry F., Jr	Cranston
Bentsen	Cannon	Danforth
Boren	Chiles	DeConcini
Bradley	Eagleton	Durkin
Glenn	Mathias	Pryor
Hollings	Matsunaga	Randolph
Huddleston	McGovern	Riegle
Humphrey	Meicher	Sarbanes
Inouye	Metzenbaum	Sasser
Jackson	Moynihan	Schweiker
Javits	Muskie	Stafford
Johnston	Nelson	Stewart
Kennedy	Nunn	Tsongas
Leahy	Packwood	Warner
Levin	Pell	Williams
Magnuson	Pressler	Zorinsky
	Proxmire	

NAYS—30

Armstrong	Hatch	Percy
Baker	Hayakawa	Roth
Bellmon	Heinz	Schmitt
Boschwitz	Helms	Simpson
Byrd, Robert C.	Jepsen	Stennis
Chafee	Kassebaum	Stevens
Dole	Laxalt	Stevenson
Domenici	Long	Stone
Garn	Lugar	Thurmond
Goldwater	McClure	Wallop

NOT VOTING—18

Biden	Exon	Morgan
Burdick	Ford	Ribicoff
Cochran	Gravel	Talmadge
Cohen	Hart	Tower
Culver	Hatfield	Weicker
Durenberger	Heflin	Young

So the motion to table the amendment of Mr. STEVENS (UP No. 431) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the motion to lay on the table the amendment of the Senator from Alaska was agreed to.

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

The motion to lay on the table was agreed to.

Mr. STEVENSON. Mr. President, will the manager of the bill yield me 4 minutes?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

UP AMENDMENT NO. 432

(Purpose: To modify method of approval with regard to certain crude oil exports)

Mr. EAGLETON. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 432.

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

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

The amendment is as follows:

On page 76, strike lines 19 through 21 and substitute the following:

(B) the President reports such finding to the Congress and the report is approved in accordance with paragraph (3).

(3) The report of the findings of the President required by paragraph (2) shall be considered approved, and shall take effect at the end of the first period of 60 calendar days of continuous session of the Congress after such report is submitted, unless the House of Representatives and the Senate adopt a resolution during such period stating that it does not favor such findings. For the purposes of this paragraph—

(A) continuity of a session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment for more than 3 days to a day certain are excluded in computing the 60-day period.

(4) A resolution under paragraph (3) shall be considered in accordance with the procedures established by section 551 of the Energy Policy and Conservation Act.

On page 76, line 22, strike out "(3)" and insert in lieu thereof "(5)"

Mr. EAGLETON. Mr. President, I yield 4 minutes to the Senator from Pennsylvania and the Senator from Alaska.

Mr. STEVENS. Mr. President, the amendment has been tabled and in so doing the most restrictive provision against a producing State that Congress has ever leveled has just been, in effect, approved by the Senate.

I can understand what the Senator from New Mexico said when he stated that we have provincial differences here. But we will not solve the problem of increasing production of oil in this country if these differences persist. I just wanted to state to the Senate that in some ways the people of Alaska will be very pleased by this vote. I was urged by some not to press this amendment because the net result of the Riegle amendment is to prohibit entirely any exchange. It will deter any future expansion of our production capacity until we put refineries in Alaska.

So what Senators really have done now is, they have deferred the production cycle for Alaska until the refineries are built. I hope that as they see plans for these refineries as announced, and as the result of this vote I predict that one will be announced in the next month, they will understand that with the refinery capacity we have now become associated with OPEC whether we like it or not.

Th Senator from South Carolina was there when we were told OPEC was saying, "In the future, if you want our oil, you are going to have to refine it here."

Now what Senators have told Alaska is, if Alaska is to get a fair price for its oil, if Alaska is to work out incentives for increased production, it must have refineries in the State of Alaska.

I have never seen a decision, which in the long-term best interests of the people from the Midwest and the east coast, in particular, will do more harm.

I just want people to understand that we tried today to make the record that we were willing to work with the Nation, that we in Alaska tried not to become associated with OPEC. We will be producing within the next decade at least 3.5 million barrels of oil. There is no transportation mechanism for that oil, and it will be refined, I believe, in Alaska, and the products will be sent where the people who manage the refineries in Alaska will decide they will be sent.

And the Senator from Michigan may say that this is a threat. It is not a threat. It is a statement of sheer economics. Senators have transformed Alaska into an OPEC producer rather than making it a part of the productive capacity of the United States, a decision I sincerely regret and one that I think the Nation will regret in the not too distant future.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, the amendment before us is a very narrow and targeted one dealing solely with the issue of whether there should be a one-House veto or a two-House veto. I do not think the debate on this amendment will consume any great length. It deals with the question of whether with respect to this bill there should be a one-House veto of Presidential action—that is what the committee bill calls for—or in my opinion a two-House veto.

Section 4(g) of the committee bill sets out certain restrictions on any exchange of Alaskan oil for a like quantity of foreign-produced crude oil. I support those restrictions especially the requirement that the President certify that at least 75 percent of the transportation costs saved by the exchange be passed on to consumers.

My only objection to the provision as reported is the requirement that, in addition to meeting the conditions written into law, the final exchange plan also be approved by concurrent resolution of the two Houses. That means either the Senate or the House can block the plan by disapproving the resolution or simply not bringing it to a vote. In short the language in the bill would allow a one-House legislative veto.

Mr. President, the Senate soon will be debating in a broader context the wisdom of the legislative veto. I will oppose any such authority. I am convinced that it would lead to chaotic congressional intervention in the day-to-day activities of executive departments and agencies and further deflect Congress from its policy-setting responsibilities.

I am particularly opposed to a legislative veto in energy matters where we already suffer from fragmented leadership, indecision, and confusion. Somebody has to lead this country. I think it is essential that Congress invest some measure of trust and confidence in the President who is the only person in a position to provide that leadership. That is the issue here.

My amendment simply substitutes for the one-House veto now in the bill a provision for disapproval of any final plan by both Houses within 60 days. The amendment incorporates the expedited procedures of section 551 of the Energy Policy and Conservation Act, which assures that resolutions of disapproval will not be bottled up in committee or filibustered on the floor.

Mr. President, in no way would my amendment alter the purposes of this section which is to assure that any exchange of Alaskan oil meet the tests of national and consumer interest spelled out. The amendment merely eliminates the unnecessary and divisive provision for a legislative veto. I hope the amendment will be accepted by the floor manager.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? Does the Senator from Illinois yield time?

Mr. HEINZ. I will yield 5 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. First, let me say that I have a great regard for my friend from Missouri and, therefore, never happily find myself on the other side of an issue from him.

But I think his amendment here will substantially weaken what the committee has done in terms of drafting this legislation that is before us.

The committee approved a provision here which the Senator from Missouri would replace, which requires that the President would have to report a finding to the Congress if he wants to engage in the export of American oil abroad, and after he had reported the findings to the Congress, Congress would then have 60 days in which to pass a resolution approving and affirming that transaction that he was proposing to us. That requires an active and an affirmative act by Congress.

The reason, in my view, why the committee chose to go with that affirmative requirement by Congress is because this is such a vital issue. As the President said to us the other night,

> We are into a war, in effect, with our fight on the energy problem, and we are going to respond to it in wartime fashion.

So the notion of taking the commodity that is in the shortest supply and that strikes right at the heart of our ability to function as a country, namely our oil reserves, and to start sending those abroad, is a matter of such importance in terms of its economic effect, in terms of its strategic military effect, that that is the kind of an issue that Congress should have to join the President in making an affirmative judgment about it.

What the Senator from Missouri is proposing is something very different, and it takes away that requirement of affirmative action by Congress and substitutes in its place what I would characterize as a very passive kind of involvement by Congress. It simply says that if Congress fails to act within a 60-day period then the action of the President would therefore go forward.

I think that is quite a different requirement. That, in my mind, puts quite a different burden on Congress than what the committee has chosen to insert in the language of the bill, which is that we address the question directly and make an affirmative judgment on it.

So I hope we will not accept the language of the Senator from Missouri, although I must say that, generally speaking, I support the proposition that we ought not to be involved in legislative vetoes on each and every item. We have got plenty of work to do. Also I think as a general proposition we ought not to move further in that direction.

But, quite frankly, I do not see this as a legislative veto. I think this crosses the line into the kind of national policy and foreign policy questions of a size and of an import where it requires the President and Congress, I think, to act together, if we are going to go ahead and engage in the export of American oil to foreign customers.

Therefore, I hope we will stay with the committee language as adopted and defeat the amendment of the Senator from Missouri.

I thank the Senator from Pennsylvania for yielding the time.

Mr. EAGLETON. Mr. President, if nobody else desires to speak on the amendment, I am about at the point where I will yield my time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. HEINZ. We are prepared to yield back the remainder of our time on this side.

Mr. EAGLETON. Mr. President, I have just a few more words and then I will yield back the remainder of my time if no one else decides to speak on the amendment.

I think Senator RIEGLE has espoused his views very ably, as he always does. It is a choice of what is being presented here, a question of a one-House veto or a two-House veto.

I do not under any circumstances think that a one-House veto is the appropriate remedy. Senator RIEGLE has pointed out from his point of view why he thinks it is proper under the circumstances.

The issue is joined.

I yield back the remainder of my time.

Mr. RIEGLE. Mr. President, I wonder if the Senator from Pennsylvania will yield 1 more minute to me?

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Mr. President, will the Senator from Pennsylvania yield an additional minute—reluctantly?

[Laughter.]

Mr. HEINZ. With joy in my heart.

Mr. RIEGLE. Mr. President, I just want to say one other thing, and that is we do have precedents that exist today for the exact language that is in the committee bill. In the Public Utility Regulatory Policies Act of 1978 we had virtually identical language to what has been proposed in the bill here. Also in the Alaska National Gas Transportation Act of 1976. We again would make the same requirement we have written into the legislation before the Senate and which the Senator from Missouri would strike.

So, having already in two other important measures related to energy taken this step, I hope we will, consistent with those precedents, stick with the committee language here.

When all time is yielded back, it will be my intention to make a motion to table the amendment.

Mr. EAGLETON. I yield back my time.

The PRESIDING OFFICER. Is all time yielded back? Does the Senator from Pennsylvania yield back his time?

Mr. HEINZ. I am prepared to yield back the time.

Mr. LEVIN. Mr. President, I oppose the Stevens amendment and support the position taken by the committee for many reasons. One basic reason is that I believe that only when the present destination of Alaskan crude is retained will we as a nation face up to the need to build the new refining capacity we require and construct the pipelines that we need. Those requirements and that need are beyond debate—and only when we have stated clearly and definitively

that there is no way to evade our responsibilities in that area, will we finally have the compelling motive to do what needs to be done.

We may argue, Mr. President, about the impact of this proposal on prices, balance of payments, jobs, and energy supply—but we cannot debate the fact that only by preventing the sorts of swaps suggested by the Stevens amendments will we take the first steps toward making the transportation and refining decisions we need to make in order to face up to the needs of the Nation.

The PRESIDING OFFICER. All time is yielded back.

Mr. RIEGLE. Mr. President, I move to table the amendment of the Senator from Missouri.

Mr. EAGLETON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Michigan to lay on the table the amendment of the Senator from Missouri. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from North Carolina (Mr. MORGAN), the Senator from Georgia (Mr. TALMADGE), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from North Carolina (Mr. HELMS), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators wishing to vote?

The result was announced—yeas 34, nays 48, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—34

Baker	Kennedy	Riegle
Baucus	Leahy	Sarbanes
Bayh	Levin	Sasser
Bentsen	Mathias	Schweiker
Boren	McGovern	Stafford
Byrd, Robert C.	Melcher	Stewart
Church	Metzenbaum	Tsongas
DeConcini	Moynihan	Warner
Durkin	Nelson	Williams
Goldwater	Packwood	Zorinsky
Humphrey	Pressler	
Javits	Proxmire	

NAYS—48

Armstrong	Cannon	Eagleton
Bellmon	Chafee	Garn
Boschwitz	Chiles	Glenn
Bradley	Cranston	Hatch
Bumpers	Danforth	Hatfield
Byrd, Harry F., Jr.	Dole	Hayakawa
	Domenici	Heinz
Hollings	Magnuson	Schmitt
Huddleston	Matsunaga	Simpson
Inouye	McClure	Stennis
Jackson	Muskie	Stevens
Jepsen	Nunn	Stevenson
Johnston	Pell	Stone
Kassebaum	Percy	Thurmond
Laxalt	Pryor	Wallop
Long	Randolph	
Lugar	Roth	

NOT VOTING—18

Biden	Exon	Morgan
Burdick	Ford	Ribicoff
Cochran	Gravel	Talmadge
Cohen	Hart	Tower
Culver	Heflin	Weicker
Durenberger	Helms	Young

So the motion to lay on the table was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Missouri. Does the Senator from New Mexico wish to be recognized?

Mr. SCHMITT. Will the Senate yield me 1 minute?

The PRESIDING OFFICER. All time has been yielded back on the amendment, unless the Senator gets time from the bill.

Mr. STEVENSON. Mr. President, I yield 1 minute on the bill.

Mr. SCHMITT. Mr. President, I just want to be sure my colleagues who are interested in the legislative veto as applied to rulemaking activities in the rulemaking agencies in the executive branch draw a sharp distinction concerning the discussion which has gone on here, which is the executive veto applied to legislative action. The legislative veto as applied to rulemaking activities is another subject which will be coming up in the next few months.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Missouri, UP amendment No. 432.

(Putting the question.)

The amendment was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 343, AS MODIFIED

(Purpose: To remove automatic decontrol through "indexing")

Mr. JACKSON. Mr. President, I call up my amendment No. 343, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself, Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. TOWER, Mr. MOYNIHAN, Mr. BAYH, Mr. DOMENICI, and Mr. THURMOND, proposes a printed amendment numbered 343, as modified.

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

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

The amendment, as modified, is as follows:

Beginning with "In" on page 81, line 14, strike out through the period on page 82, line 4, and in lieu thereof add the following:

In order to assure that requirements for national security controls are removed when no longer necessary, the Secretary of Commerce shall adopt regulations which eliminate unnecessary delay in implementing decisions reached, according to law, to remove or relax such controls.

Mr. JACKSON. Mr. President, this amendment would delete a provision of the bill which would permit the automatic decontrol of goods and technologies based upon projections of obsolescence. This decontrol provision is predicated upon the erroneous assumption that the extent to which goods and technologies become "obsolete with respect to the national security of the United States" is a predictable and measurable phenomenon. The provision does not define "obsolescence." The ordinary dictionary meaning is "no longer used." It is extremely difficult to predict with any reasonable degree of accuracy when goods and technologies will become obsolete by U.S. standards. However, it is impossible to predict the rate of obsolescence by the standards of the Soviet Union or other adversary nations. In any event, an item which is obsolete by U.S. standards may nevertheless make a significant contribution to the military potential of such an adversary nation.

The thrust of the provision—which this amendment would delete—is to substitute factual investigation and technical analysis with a simple-minded litmus paper test. To suggest by law that the relative rates of obsolescence of United States and Soviet technology is predictable and measurable is dangerous folly.

Mr. President, the amendment that I have offered has been modified after consultation with the distinguished Senator from Massachusetts (Mr. TSONGAS). In place of the current language, the following language would be substituted: "In order to assure that requirements for national security controls are removed when no longer necessary"—and that, I think, is what the Senator from Massachusetts has in mind; I support that—"the Secretary of Commerce shall adopt regulations which eliminate unnecessary delay in implementing decisions reached according to law to remove or relax such controls."

I yield to the distinguished junior Senator from Massachusetts.

Mr. TSONGAS. Mr. President, the Export Administration Act of 1979 creates a climate for export expansion to reverse the enormous trade deficits of recent years. We were very careful to retain export controls for security and foreign policy purposes. In fact, section 4(o) of the bill encourages the development of a process that will allow more time to review controlled items by removing items which no longer present a risk to our security. The administration supports the provision.

During the current round of COCOM negotiations on control lists, the United States proposed a limited system for automatically increasing the performance levels of goods and technology. This has been partially adopted.

High-technology products advance at a rapid rate, but performance levels are reviewed infrequently—only every 3 to 4 years when COCOM reviews take place. Manufacturers are forced to continue product lines for export that have been superseded by more cost-effective items with a slightly higher level of technology. The licensing process becomes bogged down with products that should no longer be controlled because it has no systematic approach for their removal.

It is estimated that the Commerce Department handled more than 77,000 applications for validated licenses last year, and the number is growing by nearly 20 percent each year. We must institute procedures to trim obsolete items from the lists. If we do not, the staffs at Commerce and Defense will remain mired in a blacklog of applications, and exporters will continue to be frustrated by delays.

For example, the U.S. computer industry has reached the end of the 100 megabyte disk drive life cycle. Most, if not all, U.S. companies have terminated production of this drive in favor of more cost effective products. The artificial extension of a product's life not only ties down valuable resources which could be better utilized on other projects, but increases the unit cost on current products due to lower production volumes.

Performance guidelines indexing could enable U.S. industry to:

Offer competitive equipment at competitive prices;

Avoid the burdensome marketing and production expense of selling and installing obsolete products; and

Proceed on a planned basis to install and upgrade systems.

This is a very technical issue, Mr. President, and I shall not take the Senate's time, but there are two tables here which so much simplify the issue that I should like to have them printed in the RECORD at this point.

(The charts submitted are not reproducible in the RECORD.)

Mr. TSONGAS. Mr. President, the issue, very briefly, is that in high technology industries, the process of review, which is a function of the so-called COCOM—which is the United States-NATO minus Japan—includes Japan without Iceland. The review of high technology equipment takes place every 4 years where, indeed, the increase in the technology is simply much more expansive. I have worked with the distinguished Senator from Washington State. If I could ask him just two questions, I think we may resolve this issue.

One, is there not agreement that this amendment would not preclude indexing if it were found to be appropriate within the national security terms as defined?

Mr. JACKSON. The Senator is correct.

Mr. TSONGAS. Second, would he agree that we would not jeopardize our efforts to implement indexing in COCOM, based on the same assurances that we had previously?

Mr. JACKSON. The Senator again is correct. The amendment would not jeopardize on-going efforts within COCOM.

Mr. TSONGAS. Within those constraints, Mr. President, I am prepared to support the amendment.

Mr. STEVENSON. Mr. President, I understand this would, in no way, affect the administration's authority to index.

Mr. JACKSON. The Senator is correct, it would not affect it. We were both in agreement as to the need to get rid of some of the regulations and controls. The question here was some ambiguities which I think we have resolved and the objectives that the Senator from Massachusetts had in mind—he, I believe, was the author of the amendment in committee—will be achieved.

Mr. STEVENSON. Mr. President, with that assurance, I have no objection to the amendment.

Mr. HEINZ. Mr. President, we have no objection on this side. I am prepared to yield back the remainder of our time.

The PRESIDING OFFICER. Is all time yielded back? Does the Senator from Washington yield back his time?

Mr. JACKSON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 433

(Purpose: To provide a legislative veto)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE), for himself, Mr. JEPSEN, and Mr. BELLMON, proposes an unprinted amendment numbered 433.

Mr. McCLURE. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

On page 79, insert the following between lines 6 and 7:

(3)(A) The Secretary of Commerce shall transmit to the House of Representatives and the Senate a summary of any proposed exercise of the authority conferred by this section with regard to agricultural commodities.

(B)(i) Except as provided in subparagraph (ii), such proposal shall not become effective if within sixty calendar days of continuous session of the Congress after the date of transmittal of the proposal to the Congress, one House agrees to a resolution of disapproval and at the end of thirty additional such calendar days after the date of transmittal of the resolution of disapproval to the other House of Congress, such other House has not passed a resolution disapproving such resolution.

(ii) Notwithstanding subparagraph (i), if at the end of sixty calendar days of continuous session of the Congress after the date of transmittal of the proposal to the Congress, neither House has agreed to a resolution of disapproval concerning such proposal, and the committee to which a resolution of disapproval concerning such proposal has been referred has not reported and has not been discharged from further consideration of such a resolution, such proposal shall be effective at the end of such sixty-day period or such later date as may be prescribed by such proposal.

(C) For the purposes of this chapter—

(i) continuity of session is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of calendar days of continuous session.

(D) The provisions of this section are enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this paragraph; and they supersede other rules only to the extent that they are inconsistent therewith;

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House; and

(iii)(I) resolutions of disapproval, and resolutions disapproving a resolution of disapproval in the other House shall, upon introduction, be immediately referred by the Presiding officer of the Senate or of the House of Representatives to the appropriate standing committee of the Senate or the House of Representatives;

(II) if the committee to which a resolution has been referred does not report a resolution within forty-five * * *

* * * * *

days thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order.

(iii) Debate on the resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not in order. An amendment to, or motion to recommit the resolution is not in order.

Mr. McCLURE. Mr. President, I ask unanimous consent to yield to the Senator from New York to handle an amendment which he has without losing my right to the floor.

Mr. JAVITS. Mr. President, if my amendment is contested, I shall withdraw it.

The PRESIDING OFFICER. Is there any objection to the amendment of the Senator from Idaho being temporarily laid aside? Without objection, it is so ordered.

The Senator from New York is recognized.

UP AMENDMENT 434

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. RIBICOFF, proposes unprinted amendment numbered 434.

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

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

The amendment is as follows:

At the end of Section 4 (page 82 after line 20) insert the following new Section:

Sec. (a) The Secretary of Commerce shall approve no license for the export of goods or technology to any country with respect to which the Secretary of State has made the following determinations:

1) that such country has demonstrated a pattern of support for acts of international terrorism, and 2) that the exports in question would make a significant contribution to the military potential of such country or would otherwise enhance its ability to support acts of international terrorism.

(b) The President may suspend the applicability of paragraph (a) of this Section with respect to any particular country or any particular transaction if he finds that the national interest so require.

Mr. JAVITS. Mr. President, this is an amendment directed at international terrorism and provides that the Secretary of Commerce shall approve no license for the export of goods or technology to any country with respect to which the Secretary of State has determined that such country has demonstrated a pattern of support for acts of international terrorism, and that the exports in question would make a significant contribution to the military potential of such country or would otherwise enhance its ability to support acts of international terrorism.

The amendment also contains a provision allowing the President to suspend it if, in his judgment, the national interest so requires.

It is a fact, Mr. President, that three countries are now named by the Department as aiding and abetting international terrorism. Those countries are Iraq, South Yemen, and Libya. There may be others, or some of them may be delisted. As, for example, Somalia, which was originally listed, is now delisted.

Mr. President, all this does is erect a signpost for the President. I have discussed this matter with the managers of the bill and I have advised them that I have talked with the Secretary of State and he would like to provide for this particular matter by letter to Senator RIBICOFF and myself. That is satisfactory to us. The difficulty is that we may finish this bill today and there will be no vestige of anything that we propose to do.

Under those circumstances, if agreeable to the managers, I hope they can take the amendment and if we can arrive at a suitable letter, then we shall ask them to drop it in conference. If not, we shall ask them to negotiate it in conference under whatever conditions they think are wise.

Mr. STEVENSON. Mr. President, with the understanding just stated by the distinguished Senator from New York, I support this amendment. The understanding is that we shall have a chance to reconsider the matter in conference and with the benefit of views that will be received from the Department of State.

Mr. JAVITS. Of course, and I hope to agree with them on a suitable letter in this instance.

Mr. STEVENSON. I am assured of that.

Mr. JAVITS. Mr. President. I ask unanimous consent that the occupant of the chair (Mr. LEVIN) be added as a cosponsor.

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

Is all time yielded back?

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I compliment the Senator from New York on this amendment. It is quite consistent with some things he and I and Senator RIBICOFF have worked on for some time. I think the majority will accept it.

I am prepared to yield back my time.

Mr. JAVITS. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the motion by which the amendment was agreed to

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 433

Mr. McCLURE. Mr. President, the amendment I am offering seeks to strike a middle ground with respect to the positions taken by the Congress on the legislative veto with a Presidential veto or with a two-House veto. The law as presently written, with the amendment offered by the Senator from Kansas, has a two-House veto on the Presidential embargo of the export of agricultural commodities. As I understand it, this bill, if passed, will wipe out that provision. My amendment would provide that either House could veto the action taken by the President in embargoing such export but would give the other House the opportunity to override that veto, thus siding with the President and reinstating the embargo.

Mr. President, without belaboring the subject of whether or not an agricultural embargo ought to be subject to this action specifically, let me address just that question of the legislative veto. It has been a very difficult thing for both the executive and the legislative branch to deal with.

It seems to me this middle ground, which seems to be emerging from the deliberations in the other body, and as I understand it the deliberations on the Federal Trade Commission legislation amendment which may be offered, is to try to find a way around the arguments that the one-House veto is too arbitrary and involves only one House and does not have in it any element of action by the other body.

This permits both Houses of the Congress to be involved, if they desire to be involved, permits one to veto the action of the Executive in such an embargo, but does not leave it there if the other body desires to be involved.

Mr. President, I think it is a reasonable compromise between what is existing law and wiping out the legislative veto provision altogether.

Mr. President, I do not want to belabor the subject if, as a matter of fact, the managers will accept the amendment. I know that they are both puzzled and intrigued, and I hope favorably so, by this attempt to compromise that issue.

If, on the other hand, they are not prepared to accept the amendment, I would like to discuss for a moment the reasons for my concern about the embargo of the export of agricultural commodities.

Mr. HEINZ. The Senator my go ahead.

Mr. McCLURE. Mr. President, without belaboring that subject, and because I have been invited by the manager of the bill to do so, let me indicate that a number of years ago, when we had been for a number of years pushing the export of soybeans and urging on our friends in Japan that they should accept more and more soybeans, they had done so to the point that 43 percent of the protein in their diet was then in soybeans in one form or another.

Suddenly, without any notice to the Japanese at all, there was an embargo imposed on the export of soybeans.

I remember that incident particularly because I was in Japan at the time, sitting down talking with a number of the members on the Japanese Diet, and one young man who was involved in those discussions seemed extremely exercised by the action that had been taken by the President of the United States in that precipitate embargo.

It turned out that I understood, when I became informed that he was the Deputy Minister of Agriculture in that country and, therefore, was responsible for the Government action that had allowed themselves to be so dependent upon U.S. soybeans as the source of basic nutrition in their diet.

It was a very damaging blow, not only to the Japanese-American relations, but it was also a very damaging blow to the soybean industry in the United States, because we have never been able to recover the credibility we had before that time as a supplier, as a secure source of supply, for the dietary requirements of that specific ally of ours, and a very important trading partner.

Mr. President, I do not have to underscore the importance of soybean exports to the agricultural markets in this country. They have been the salvation for agriculture over a number of years, and far too many farmers in the United States, to have to demonstrate that any action that destroys foreign markets for soybeans has a tremendously crippling effect on the economic being of agriculture in the United States.

I mention this incident, Mr. President—because I am not from a State that produces any soybeans, I cannot be accused of any direct parochial interest because of my interest in soybean export—because I am interested in the health of the agricultural economy.

Mr. President, it seems to me that there needs to be some kind of a congressional involvement in a sudden change of direction with respect to the agricultural commodity exports. This amendment which I have offered would provide that mechanism by which the Congress could, if it desired, exercise some influence upon the negative effects of a suddenly imposed embargo which

can be and sometimes, as has been demonstrated, is invoked by the legislative branch.

Mr President, I would hope that the managers of the bill, knowing of the importance of this subject, as so many Members of this body and the other body recognizing the sincere effort to try to find a compromise between the various proposals that have been made, would see fit to accept this proposal as a compromise and take it to conference with the hope we can get the Members of the other body to agree with us with regard to this provision.

Mr President, I bring before the Senate today an amendment designed to minimize the Government's ability to grossly interfere with the export of agricultural commodities..

Back in 1972, we saw for the first time in many, many years a prosperous domestic wheat industry. U.S. wheat yields were good while world stocks were down, thus giving the American farmer the brief, unusual possibility to market his wheat for premium prices. For many producers, this meant paid-up mortgages, new and better equipment, or maybe the opportunity to finally buy up—after so many years of waiting—that adjoining quarter section wanted so badly.

For all too many, these dreams were literally shuttered by the administration's sudden, harsh, and unnecessary embargo of all export wheat stocks. And the farmers were not the only parties injured in the move. Grain companies and farm cooperatives found themselves unable to fulfill export contracts. Dockworkers and ship companies had to find work elsewhere. And, perhaps worst of all, those foreign nations we would like to call our trading partners, suddenly learned what kind of risk it took to do business with the United States. Some are only now getting over those wounds.

Mr President, this amendment I offer today will minimize—if not eliminate—the chances that such capricious embargoes can ever again be imposed by the executive branch. My amendment provides a 60-day buffer zone between the time any such embargo action on agricultural commodities is proposed and the time it can go into effect; and within that time period, either House can stop the action by adoption of a resolution of disapproval. There is a further safeguard here, however, in that if one House approves a resolution of disapproval the other House may, within 30 days, vote to agree with the Executive's proposed embargo action rather than that of the other House. In such cases, the Executive's action would go into effect as planned.

The net result of this amendment is not merely a shift of power away from the executive to the legislative branch. On the contrary, the Executive's action may in the end prevail, however, in the meantime, the Congress would be given the opportunity they fully should by law have to oversee all aspects of commerce. Moreover, my amendment, at the very least, will provide an adequate time period in which current export contracts could be completed, new jobs could be found, and, for the foreign nations, new—and perhaps more reliable—sources for their so badly needed foodstuffs can be located.

It is my feeling this is the very least we can and must do to protect our farmers, our export cooperatives and companies, and, indeed, our reputation as a reliable and trustworthy trading partner.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. WILLIAMS). The Senator from Illinois.

Mr. STEVENSON. Mr. President, I share the Senator's feelings about embargoes on exports of agricultural commodities. I am against them. But I believe there are adequate safeguards in existing law to make us all confident that there will not be such embargoes.

For one thing, they cannot even be imposed unless agricultural commodities are insufficient to meet domestic requirements.

For another thing, if embargoes were to be imposed on exports of any commodity, the effect would be to immediately peg the loan level at 90 percent.

That would put the rate up for corn to $3.75; $1.94 for oats.

There is no chance that the administration would do that.

But, Mr. President, my main objection to this amendment is based on the veto provision which it contains.

This measure provides for a one-House veto of any embargo and, as I understand it, it establishes a new procerure which would give one House a veto over the other House.

It is a 1½-House veto.

I can appreciate that the Senator is trying to strike a compromise on this issue of one-House vetoes. But I think it is of doubtful wisdom and constitutionality.

For that reason, mainly, not because I do not share his concern about embargoes against agricultural commodities, I have to oppose this amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I associate myself with the comments of the Senator from Illinois.

I say to my good friend from Idaho that I, too, remember well the case he cites. Obviously, it was a question of being very shortsighted. We not only upset the Japanese diet, but we upset their appetite and their parliamentary diet, as well.

Yet, I really do believe that the provisions we have will protect us in the future much better than we have been protected in the past and will protect us from the kinds of very arbitrary actions that have been taken.

Second, I think even the Senator from Idaho will admit his procedure is innovative and unique. I have some grave reluctance about trying out such a new procedure in this situation.

I am not a particular fan of one-House vetoes. Because there is a one-House veto and a one-House override of the veto, I find that that does not double my pleasure or double my fun.

Mr. McCLURE. Does it double the Senator's displeasure with the one-House veto?

Mr. HEINZ. In moves in that direction. So I must reluctantly oppose the Senator's amendment.

Mr. McCLURE. Mr. President, I am sorry that the floor managers of the bill have seen fit to oppose the amendment.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, I will not belabor the subject, except to say that this device of trying to strike a balance between the arguments of a one-house veto versus a two-house veto, I predict, will be adopted. If not in this amendment, it will be adopted as we go forward, not just on this particular subject but also on the broad array of areas in which Congress legitimately desires to give the Executive some discretion and legitimately desires to restrain that discretion by saying, "We want to see how you use it," without having to come in and pass a law, which then must be accepted by the Executive to overcome what the Executive has just done.

We must find some way, or we are going to find more and more developing a resistance to the delegation of authority to the executive branch of Government and the retention of that authority in the hands of the legislative body.

Mr. President, I think this is a constructive effort. I hope the Senate will agree with me and adopt this amendment.

If the managers of the bill are prepared to yield back the remainder of my time, I am prepared to do so.

Before doing that, Mr. President, I ask unanimous consent that the names of the Senator from Iowa (Mr. JEPSEN) and the Senator from Oklahoma (Mr. BELLMON be added as cosponsors of the amendment.

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

Mr. NUNN. Mr. President, I submit a statement by the senior Senator from Georgia (Mr. TALMADGE) and ask unanimous consent that it may be printed in the RECORD.

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

STATEMENT BY SENATOR TALMADGE

I would like to take this opportunity to express my support for S. 737 the Export Administration Act of 1979. This legislation provides long overdue revisions to the existing U.S. export licensing procedures to cut through the myriad of redtape and paper shuffling which has needlessly burdened and delayed American businessmen and exports.

Increased export of American products is vitally needed as an important component in strengthening our American economy and the value of the American dollar worldwide. Certainly, the enhancement of American exports and increased trade should be given a very high priority in all U.S. policy planning now and in the future.

I would like to join my colleagues in expressing appreciation for the fine job which the Subcommittee on International Finance,

so ably chaired by the Senator from Illinois. Mr Stevenson has done in pulling together this desparately needed legislation In addition I would like to pay particular tribute to the voluntary contributions to this effort that have been made by the distinguished Governor of my state, the Honorable George Busbee As Chairman of the International Trade and Foreign Relations Committee of the National Governor's Association, Governor Busbee has generously given of his time and effort in directing the initiatives of our nation's governors towards improving the opportunities for the export of American goods and commodities His committee has conducted seminars and met with thousands of businessmen nationwide in order to make available to the Congress and the American public the kind of information which will enable us to devise effective legislative remedies to the complex obstacles that have plagued U S export policies and procedures in recent years

I would also like to commend and recognize the efforts of the students and staff of the Rusk Center of International Law of the University of Georgia Law School for the research and technical support and advise it has provided to the Governor's Association and to the Congress during the development of this legislation Under the able guidance of my warm friend Dean Rusk, the Rusk Center has been a tremendous success during its two years of existence and is making significant contributions in the area of international trade and U S foreign policy

The state of Georgia is most fortunate to be able to claim the talents of our outstanding Governor and the Rusk Center of International Law and I am happy on behalf of the people of Georgia to have had this opportunity to recognize the contributions to this legislation made by our Governor and the Rusk Center

Mr STEVENSON Mr President, if no other Members wish to be heard on this matter, it is my intention to move to table the amendment.

Mr McCLURE. Before doing that, I ask the Senator from Illinois, since he plainly is intrigued by the idea, and the Senator from Pennsylvania says he is half-pleased by the idea, whether we might have an up and down vote on the merits rather than a motion to table.

Mr. HEINZ. I would not go that far.

Mr. STEVENSON. I am not pleased with this amendment.

Mr HEINZ. I did not say I was half-pleased with the amendment.

Mr McCLURE. I thought the Senator from Pennsylvania said he was half-pleased.

Mr HEINZ No. I said it did not double my pleasure or double my fun.

Mr McCLURE. But the Senator from Pennsylvania admitted that it cut in half his displeasure over the single-House veto.

Mr HEINZ. No, it tended to double it. [Laughter]

Mr. STEVENSON. Mr. President, I sense that the happy hour is approaching [Laughter.] We had better get moving.

Is such motion in order?

The PRESIDING OFFICER. If all time has been yielded back.

Mr STEVENSON. I yield back the remainder of my time.

Mr McCLURE. I yield back the remainder of my time.

Mr STEVENSON. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Idaho. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from North Carolina (Mr. HELMS), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 46, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—33

Bentsen	Hatfield	Nelson
Bradley	Heinz	Pell
Bumpers	Hollings	Pryor
Byrd, Robert C.	Huddleston	Randolph
Cannon	Inouye	Riegle
Chafee	Javits	Sarbanes
Chiles	Mathias	Stafford
Cranston	Matsunaga	Stevenson
Durkin	Metzenbaum	Stone
Eagleton	Moynihan	Tsongas
Glenn	Muskie	Williams

NAYS—46

Armstrong	Hayakawa	Percy
Baker	Humphrey	Pressler
Baucus	Jackson	Proxmire
Bellmon	Jepsen	Roth
Bo?en	Johnston	Sasser
Boschwitz	Kassebaum	Schmitt
Byrd,	Laxalt	Schweiker
Harry F., Jr.	Levin	Simpson
Church	Long	Stennis
Danforth	Lugar	Stevens
DeConcini	Magnuson	Stewart
Dole	McClure	Thurmond
Domenici	McGovern	Wallop
Garn	Melcher	Warner
Goldwater	Nunn	Zorinsky
Hatch	Packwood	

NOT VOTING—21

Bayh	Exon	Leahy
Biden	Ford	Morgan
Burdick	Gravel	Ribicoff
Cochran	Hart	Talmadge
Cohen	Heflin	Tower
Culver	Helms	Weicker
Durenberger	Kennedy	Young

So the motion to lay on the table Mr. McCLURE's amendment (UP No. 433) was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Idaho. The yeas and nays have been ordered.

Mr. McCLURE. Mr President, I ask unanimous consent to vitiate the order for the yeas and nays

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. McCLURE. Mr President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

UP AMENDMENT NO. 435

(Purpose: To exempt from disclosure information collected from exporters under a pledge of confidentiality until June 30, 1980, but thereafter exempt only license applications. 96th Congress, 1st Session)

Mr. HATCH. Mr. President, I call up an unprinted amendment, send it to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 435.

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

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

The amendment is as follows:

On page 104 beginning on line 16, strike out all through the last complete sentence on line 25, and insert in lieu thereof the following:

"(c) Except as otherwise provided by the third sentence of section 5(b)(2) and by section 9(c)(2)(C) of this Act, information obtained prior to June 30, 1980, under this Act, which is deemed confidential, including Shippers' Export Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 (b)(3)(B) of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary of Commerce determines that the withholding thereof is contrary to the national interest. Information obtained after June 30, 1980, under this Act may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning, license applications under this Act shall be withheld from public disclosure unless the release of such information is determined by the Secretary of Commerce to be in the national interest. Enactment of this subsection shall not affect any judicial proceeding commenced under section 552 of title 5, United States Code, to obtain access to boycott reports submitted prior to October 31, 1976, which was pending on May 15, 1979; but such proceeding shall be continued as if this Act had not been enacted."

Mr. HATCH. Mr. President, I am introducing an amendment to delete the indefinite blanket exemption to Freedom of Information Act requests and replace

it with an exemption until June 30, 1980. This will give exporters almost a year's time to prepare for a change in the law at that time, which would result in all export control information being subject to the Freedom of Information Act except for license applications. These license applications are the items that exporters are most concerned about becoming available to their competitors, plus they contain sensitive national security information. I have been informed that this issue of access to export control information will be coming up again next year, so we will have an opportunity to more fully explore this issue at that time.

It is my understanding that the managers of the bill will accept this amendment and, therefore, I reserve the remainder of my time.

Mr. STEVENSON. Mr. President, I think this is a sound amendment and I am prepared to accept it.

Mr. HEINZ. Mr. President, I want to compliment the Senator from Utah for offering this amendment. I think it is a well-balanced amendment and is deserving of support.

Mr. HATCH. I am prepared to yield back the remainder of my time.

Mr. STEVENSON. I yield back my time.

Mr. HATCH. I move the adoption of the amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 436

(Purpose: to revise the time periods and procedures for reviewing export licenses)

Mr. CHAFEE. Mr. President, I send to the desk on behalf of myself and Senator NUNN a printed amendment.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE), for himself and Mr. NUNN, proposes an unprinted amendment numbered 436.

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

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

The amendment is as follows:

On page 63, lines 13 through 15, strike out ", unless additional time is required and the applicant specifically requests an extension".

On page 70, lines 5 through 7, strike out ", unless additional time is required and the applicant specifically requests an extension".

On page 70, line 7, after the period insert "All agency reviews of preliminary decisions and appeals to the appropriate authorities set forth in this Act shall be accomplished within that ninety-day period.".

On page 71, between lines 3 and 4, insert the following:

"(D) If the Secretary determines that a particular application or set of applications is of exceptional importance and complexity, and that additional time is required for negotiations to modify the application or applications, or otherwise to arrive at a decision, the Secretary may extend any time period prescribed in this subsection. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor.".

Mr. CHAFEE. Mr. President, what this amendment does is to remove a provision that permits the Secretary to say to the applicant that she, the Secretary, requests an extension of time, which the applicant therefore goes along with, because of the fear that if the applicant does not there will be further delay or that the application will be denied.

It is my understanding that the managers of the bill agree with this provision, and in lieu of that particular provision it provides that the Secretary, in cases of exceptional importance or complexity, can request additional time. But if she does she must notify Congress and the applicant of such extension and the reasons therefor.

I reserve the remainder of my time, Mr. President.

Mr. HEINZ. Mr. President, I earlier examined this amendment and I think it is quite consistent with what we are trying to do, with the spirit of the law, and I compliment the Senator from Rhode Island in offering the amendment. On this side we are prepared to accept it.

Mr. CHAFEE. I thank the Senator.

Mr. STEVENSON. Mr. President, I am prepared to accept the amendment.

Mr. CHAFEE. Mr. President, I yield back the remainder of my time.

Mr. HEINZ. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

UP AMENDMENT NO. 437

Mr. JACKSON. Mr. President, I call up my unprinted amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington (Mr JACKSON) proposes an unprinted amendment numbered 437

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

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

The amendment is as follows:

On page 61, line 10, after the period add the following:

"Rules and Regulations shall reflect the difficulty of devising effective safeguards which would prevent a nation which poses a threat to the United States from diverting critical technologies to military use, the difficulty in devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the re-export of critical technologies from non-controlled countries to nations that pose a threat to the security of the United States Such rules and regulations shall not assume that effective safeguards can be devised."

Mr. JACKSON. Mr. President, effective implementation of the critical technologies approach endorsed by the bill requires far more than the creation of a list of goods and technologies. Unfortunately, the bill would accomplish little more than the formulation of such a new list by its failure to remedy important loopholes in the existing system.

Indeed, the bill would make it U.S. policy to subject critical technologies to traditional validated license controls only to the extent that multilateral control agreements could be secured. Instead of establishing effective control of critical technologies and goods as our highest national priority, the bill would lay the groundwork for a lowest common denominator approach whereby one noncooperating nation could undermine controls.

The amendment would correct this deficiency, but in a manner consistent with the highly desirable objective of achieving multilateral control agreements. The amendment does this by specifying the policy that should generally be followed with respect to exports of critical technologies and goods. As to nations threatening U.S. national security, exports of critical items should be prohibited. As to free world nations, effective safeguards against reexports should be provided by validated export license. Both of these control policies are to be implemented "to the maximum extent consistent with the other provisions of the act." Thus, if efforts to eliminate foreign availability of any critical item by multilateral agreement or otherwise are not successful, then the provisions removal or relaxation of the control would be operative, unless the President invoked a special exception in the bill.

If a critical technologies approach to national security export controls is to achieve its purpose, there must be a clear policy directive from Congress as to how these technologies and related goods should be controlled. Experience has shown that the Soviet Union and other Warsaw Pact nations have acquired and will continue to seek advanced American technologies in order to enhance their military power Even where multilateral controls are obtained, the bill would merely continue the status quo in which determinations of whether to permit export of an item to a Communist nation are made on an ad hoc basis in the licensing process

Licenses may be granted on the basis that the recipient nation makes a representation that the "end-use" will be non-military or on the basis that there are safeguards against diversions to military use. However, end-use statements and safeguards provide no protection against the diversion of "critical" technology or goods. By definition,

they consist of know-how or products which transfer know-how for which safeguards against diversion cannot be devised. The amendment would direct that, to the maximum practicable extent consistent with the provisions of the act, exports of critical items shall be prohibited or embargoed to nations threatening U.S. security. This would also have the benefit of obviating many unnecessary license proceedings.

The amendment would also direct that, to the maximum possible extent consistent with the provision of the act, export of critical goods and technologies to non-Communist nations be subject to validated license controls which are reasonably designed to prevent the reexport of such critical items to Communist nations. Present export regulations generally do not control on exports of technologies to most non-Communist nations. As a consequence, many sensitive technologies—including those employed in the cruise missile system—can be exported to most non-Communist nations without having to obtain advance clearance from the Government. Given this loophole, the opportunities for Soviet acquisition of U.S. technologies are most disturbing.

This amendment would not—as some critics have asserted—increase controls on exports of goods to non-Communist nations. Most high technology products are subject to controls even to CoCom member nations. Of course, the danger of re-export of items subject to CoCom controls is significantly less than the danger present by exports to non-CoCom member nations. It is the purpose of this amendment that risk of reexport of critical goods in these situations be carefully considered—which is not the case under the present system of cursory review of such license cases.

The most important objective of this policy on free-world controls is to close the glaring loopholes whereby exports of many critical technologies are completely unregulated.

The amendment provides sufficient flexibility to take into account our traditional special relationship with Canada. Most items the export of which are controlled to other nations do not require validated licenses for export to Canada. The policy with respect to exports to free-world destinations is designed to prevent re-exports. The amendment provides that to "the maximum extent consistent with the provisions of the act" that the re-exports of critical technologies are to be prevented by validated license controls.

One section of the bill—which is the same as current law—provides that U.S. policy toward individual countries shall take into account all factors, including its relationship to countries friendly and hostile to the United States and its ability and willingness to control retransfers of U.S. exports in accordance with U.S. policy. Given the special relationship between the United States and Canada and its reliable export controls, there would be no reason to disturb the present open borders policy.

Mr. President, this amendment is being offered as a substitute for amendment No. 342. I have conferred with the managers of the bill, and I believe it represents a fair compromise in trying to deal with this problem of diversions of U.S. exports to military use by hostile nations and diversions of U.S. exports by nonhostile countries to hostile countries. In the case of critical technologies and goods this problem is of special importance.

It is my understanding that the amendment is acceptable to both sides.

Mr. MATHIAS. Mr. President, will the Senator yield for an inquiry?

Mr. JACKSON. Yes.

Mr. MATHIAS. Do I understand it is an unprinted amendment?

Mr. JACKSON. We have amended my original amendment, and this is really a substitute for that. We have stricken everything out of my amendment 342 which involved some problems that the administration felt would not be workable.

Mr. MATHIAS. Is the text available?

Mr. JACKSON. I will give you a copy.

Mr. MATHIAS. Committee counsel has just handed me a copy.

Mr. CHAFEE. Mr. President, will the proponent of the amendment yield for a question?

Mr. JACKSON. Yes.

Mr. CHAFEE. Is this amendment acceptable to the administration?

Mr. JACKSON. Yes. We worked it out with the representative of the Department of Commerce, who is off the floor.

Mr CHAFEE. I thank the Senator.

Mr. HEINZ. Mr. President, the minority has examined the amendment and, at this time, I know of no objection to it. My staff and I have worked with Senator STEVENSON's staff, with the administration and, of course, with my good friend from Washington, Senator JACKSON.

We believe it is a realistic approach to a very difficult question which is nothing less than how do you approach the question of making sure that critical technologies do not somehow drift into the wrong hands. I think it is fair to say this is about the best we can do.

Mr. JACKSON. Mr. President, I think we have made a real effort to at least make a beginning in dealing with this problem of diversion as it affects critical technologies, and I am prepared to yield back my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STEVENSON. I yield back my time.

Mr. HEINZ. We yield back our time if everybody else does.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 438

(Purpose: (1) To provide an opportunity for license applicants to petition for consideration of licenses in conformity with the Act. (2) To require the Secretary of Commerce to issue regulations providing for export control list reviews (3) To provide an opportunity for interested Government agencies and other affected parties to submit views on export control list revisions. (4) To require reports on the domestic economic impact of export controls. (5) To require that applicants be informed of the reasons for license denials or deferrals and to establish appeals procedures)

Mr. STEVENSON. Mr. President, I have five amendments at the desk. They are all procedural amendments. I believe no one objects to them. I ask unanimous consent that they be considered en bloc.

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

The amendments will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr STEVENSON) proposes five unprinted amendments, en bloc, numbered 438

Mr. STEVENSON. I ask unanimous consent that further reading of the amendments be dispensed with.

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

The amendments are as follows:

On page 73, after line 15 insert a new paragraph as follows:

"(10) The Secretary shall establish appropriate procedures for applicants to appeal denials of export licenses. In any case where the absence of a license approval exists because of agency action or inaction that clearly conflicts with the procedures, standards, or policies of this Act, the applicant may file a petition with the Secretary requesting that such action or inaction be brought in conformity with the appropriate provisions of this Act. When such petition is filed, the Secretary shall determine the validity of the petition and, if valid, shall take appropriate corrective action."

On page 63, line 18, strike out the phrase "The Secretary shall review" and insert in lieu thereof

"The Secretary shall issue regulations providing for review of"

On page 63, strike out the last word of line 21 and strike out all of lines 22, 23, and 24 and insert in lieu thereof: "carry out the policies of this Act, and for the prompt issuance of such revisions of the list as may be necessary Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments with or without oral presentation. Such regulations shall further provide that as part of such review, there shall be an assessment of".

On page 66, line 7, insert the following immediately after "controls": "and the estimated domestic economic impact on the various industries affected by such controls". trols".

On page 71, strike out the phrase, "to the maximum" on line 1 and strike out all of lines 2 and 3 and insert in lieu thereof: "in writing within five days of such decision of the statutory basis for denial, the policies set forth in section 3 of the Act which would be furthered by denial, and, to the extent consistent with national security and foreign policy, the specific considerations which led to the denial, and of the availability of appeal procedures. In the event decisions on license applications are deferred inconsistent with the provisions of this subsection, the applicant shall be informed in writing within five days of such deferral. The Secretary

shall establish appropriate procedures for applicants to appeal such deferrals or denials."

Mr. STEVENSON. I offer these amendments on behalf of myself, Mr. HEINZ, and Mr. JEPSEN. These amendments all originated with the Governors' Committee on Exports, chaired by the Governor of Georgia, Mr. Busby. They provide opportunities for the public to comment on proposed provisions for export control; they provide an appeals process for license applications which are delayed beyond the time limits set forth in the act, or are denied; they provide that license applicants be notified promptly if their license applications are delayed more than 5 days beyond the deadlines in the act; they require the Secretary of Commerce to require reports on the domestic impact of export controls; and they also permit applicants to petition to have their applications considered in accordance with the provisions of the act.

These amendments are designed to expedite procedures to carry out the provisions of the act and to improve congressional oversight.

The administration has no objections to them.

Mr. HEINZ. We have no objection.

Mr. STEVENSON. So, Mr. President, I am prepared to yield back the remainder of my time.

Mr. HEINZ. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing, en bloc, to the amendments of the Senator from Illinois (Mr. STEVENSON) (No. 438).

The amendments, en bloc, were agreed to.

UP AMENDMENT NO. 439

(Purpose: To provide validated license control for crime equipment exports)

Mr. STEVENSON. Mr. President, I send another amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 439:

On page 82, after line 20, add a new subsection as follows:

Mr. STEVENSON. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 82, after line 20, add a new subsection as follows:

"(q)(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand, and such other countries as the President shall designate consistent with the purposes of this subsection 502(b) of the Foreign Assistance Act of 1961, as amended.".

Mr. STEVENSON. Mr. President, this amendment would carry over the existing provisions of law with respect to exports of crime control and detection equipment, with one minor modification: It requires that the primary law with relation to crime control and detection equipments be approved by the Secretary of Commerce to validate a license, except for export to countries which are members of the North Atlantic Treaty Organization, Japan, Australia, and New Zealand.

The modification simply adds to that list of countries such other countries as the President shall designate consistent with the purposes of the Foreign Assistance Act of 1961.

I know of no objection to this amendment.

Mr. HEINZ. Mr. President, I have examined the amendment. I know of no objection to it, or reason why it should not be adopted. I am prepared to accept the amendment, and yield back the remainder of our time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment (UP No. 439) of the Senator from Illinois (Mr. STEVENSON).

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, if there are no further amendments, I am prepared to yield back all time on the bill.

UP AMENDMENT NO. 440

(Purpose: To insure that the Commodity Credit Corporation does not act as a National Grain Marketing Board)

Mr. BELLMON. Mr. President, I have an amendment at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as folows:

The Senator from Oklahoma (Mr. BELLMON), for himself and Mr. BOSCHWITZ, proposes an unprinted amendment numbered 440.

On page 78, strike out all after the period in line 1 down through line 11.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. The remainder of the material is simply explanation, not a part of the amendment.

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

Mr. BELLMON. Mr. President, this provision of the bill would seem to give the Government, through the Commodity Credit Corporation, authority to go back in the business of buying and owning agricultural commodities. Some Members may remember the time when the Commodity Credit Corporation owned enormous quantities of various kinds of agricultural commodities, and the great difficulties that were experienced when the Government tried to dispose of those commodities, and also the fact that a great many producers of agricultural commodities felt that the Secretary of Agriculture was using his power in the marketplace to control the prices of various kinds of agricultural commodities.

I can see no reason for this bill to get us back in the business of buying or giving the Secretary of Agriculture or the Commodity Credit Corporation authority to buy agricultural commodities. I believe the bill would be greatly improved if this section were simply stricken.

Mr. STEVENSON. Mr. President, this provision in the bill gives no authority to the Secretary of Agriculture, to the CCC, or to anybody else for export controls. It does absolutely nothing to enlarge on any existing authority in the law for control of the exports of agricultural commodities.

I am against controls on exports of agricultural commodities. There are more of them now than we need.

What the bill does is suggest that, if there is a short supply situation, we would have some alternatives to another across-the-board embargo, such as the soybean embargo. One of the alternatives suggested in the bill is to license exports. It is not only in this bill; it is in the law.

The situation that the authors of this provision had in mind would be a case though it is hard to conceive, of a soybean embargo, far enough. That requires a short supply situation to begin with, and then, instead of an across-the-board embargo, this provision would have the President consider the alternative of using the CCC as the exclusive sales agent for sales to foreign governments. The bill is just permissive; it does not provide any new authority.

The countries that we have in mind are nonmarket countries, the PRC and the U.S.S.R. Any sales to those countries could be channeled through the CCC in order to obtain for the United States maximum economic advantage, instead of leaving ourselves to the choice of either embargoes across the board or the multinational corporations.

But I point out to the Senator again that this does not add any additional authority. The President is controlling the volume of grain sales to the U.S.S.R. right now under current law.

Mr. BELLMON. Mr. President, if the language gives no additional authority, it seems to me to be superfluous. But the language of the section seems to me, say very plainly—I will read beginning on page 78, beginning on line 3:

Given full consideration to the alternative of using the Commodity Credit Corporation to purchase such commodity and arrange sales to foreign governments in accordance with the provisions of the Commodity Credit Corporation Charter Act so as to stabilize markets and maximize returns to agricultural producers.

Mr. President, that is precisely what the Commodity Credit Corporation did for 20 years, and almost bankrupted the agricultural sector. I can see no reason for putting the Commodity Credit Corporation back in the grain business with this kind of bill. If that is to be done, let it be done by an agricultural bill, where we will know what the circumstances are.

This business of putting the Commodity Credit Corporation into the business of stabilizing markets and maximizing returns to agricultural producers is not a proper function of a trade bill.

Mr. STEVENSON. Mr. President, the Commodity Credit Corporation already has this authority. All we are saying in this bill is: instead of soybean embargoes

across the board, which I want to get away from, you can use the CCC under its existing authority. You do not give it any additional authority to control your sales to the Peoples Republic of China or to the U.S.S.R. We do not even go that far really. The bill just says you have to give attention to the authority you already have before you impose an embargo on soybeans, corn, wheat, or any other agricultural commodity. What, Mr. Prsident, is wrong with giving attention to that kind of a possibility?

I suggest that it not only would enhance our competitive position in the world, but it might begin to signify to the world that the United States is getting its act together, instead of giving, as we do now, all the advantage in the marketplace to the People's Republic of China and the U.S.S.R.

This would mean that if those countries need exports and we have to embargo, they are going to have to come to any agency of the U.S. Government, as they would with any other exporting country in the world. They would have to bargain instead of sneaking into our markets quietly as they do over and over again with prices of commodities skyrocketing as the word gets out, to the disadvantage of American farmers and the advantage of the Soviet Union, which can then turn around and sell food at a profit and at our expense.

As I say, it does nothing to change existing authority. It just points out that there are some alternatives under existing authority by which the United States can enlarge its power, its economic power and its political power, in the world by using an instrumentality that already exists, and only as an alternative to an across-the-board soybean embargo or wheat embargo.

Mr. BELLMON. Mr. President, in the first place, it does do something else. If the Members will look at page 15 of the committee report, the top of the page, under the subtitle Agricultural Commodities, it says:

> S. 737 revises provisions concerning the export of agricultural commodities which are contained in the present Act. S. 737 adds a requirement that the President, before resorting to export controls, consider using the Commodity Credit Corporation as the exclusive sales agent for sales to foreign governments in order to stabilize markets and maximize returns to agricultural producers. The Committee believes that in circumstances in which purchases by foreign governments are the principal cause of a tight supply situation for a particular agricultural commodity, it may be preferable to have the CCC take over sales to that country than to apply comprehensive export controls on sales of the commodity in question.

What we are talking about here is putting the CCC in the business of buying and hopefully exporting agricultural commodities. It is a very large, new authority that the CCC has not used in the past and, in my opinion, is not in the national interest.

I would remind the Senator from Illinois that agriculture generally has fought for years to keep the CCC out of the marketplcae, that we have even opposed establishing a so-called strategic reserve for the reason that we do not want the Secretary of Agriculture to have commodities he can dump on the market and control prices in that way. This, no matter what good intentions the manager of the bill may have, is exactly what we are doing here. If we let the Commodity Credit Corporation start buying commodities for one purpose we have no way of knowing that they will not use them for market control.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, the Senator from Minnesota is to be added as a cosponosr of the amendment.

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

Mr. STEVENSON. Mr. President, I have no desire to prolong this. I will reiterate that this is no authority that is not already in the law. All it does is require that the President, before resorting to export controls, consider using the Commodity Credit Corporation as the exclusive sales agent for sales to foreign governments. The only governments that I have in mind, or that the authors of this provision have in mind, are the People's Republic of China and the Soviet Union, and only then in circumstances that authorize across-the-board embargoes.

Under those circumstances, Mr. President, if embargoes would be imposed, it would behoove us as an alternative not to impose them except with respect to those countries and then give ourselves all the leverage and all the power we can get in the marketplace. The way to do that is through the CCC and it requires no additional authority. They can do it right now.

With that, Mr. President, unless there are further comments, I intend to move to table the amendment.

Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. STONE). Do Senators yield back their time?

Mr. STEVENSON. I yield back the remainder of my time.

Mr. BELLMON. I yield back the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to lay on the table UP Amendment No. 440. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. MELCHER), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. TALMADGE), and the Senator from Texas (Mr. BENTSEN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from North Carolina (Mr. HELMS), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Is there any Senator wishing to vote in the Chamber?

The result was announced—yeas 20, nays 57, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—20

Bradley	Levin	Riegle
Byrd, Robert C.	Matsunaga	Sarbanes
Cannon	Metzenbaum	Sasser
Cranston	Moynihan	Stevenson
Durkin	Muskie	Tsongas
Glenn	Nelson	Williams
Inouye	Pell	

NAYS—57

Armstrong	Hatfield	Percy
Baker	Hayakawa	Pressler
Baucus	Heinz	Proxmire
Bellmon	Hollings	Pryor
Boren	Huddleston	Randolph
Boschwitz	Humphrey	Roth
Bumpers	Jackson	Schmitt
Byrd, Harry F., Jr.	Javits	Schweiker
	Jepsen	Simpson
Chafee	Johnston	Stafford
Chiles	Kassebaum	Stennis
Church	Laxalt	Stevens
Danforth	Long	Stewart
DeConcini	Lugar	Stone
Dole	Magnuson	Thurmond
Domenici	Mathias	Wallop
Eagleton	McClure	Warner
Garn	McGovern	Zorinsky
Goldwater	Nunn	
Hatch	Packwood	

NOT VOTING—23

Bayh	Exon	Melcher
Bentsen	Ford	Morgan
Biden	Gravel	Ribicoff
Burdick	Hart	Talmadge
Cochran	Heflin	Tower
Cohen	Helms	Weicker
Culver	Kennedy	Young
Durenberger	Leahy	

So the motion to lay on the table UP amendment No. 440 was rejected.

Mr. HEINZ. Mr. President, I ask unanimous consent that the yeas and nays on the Bellmon amendment be vitiated.

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

The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (UP No. 440) was agreed to.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. STEVENSON. Mr. President, I do not know if there are any more amendments.

Mr. President, we have today adopted a number of amendments which strengthen and improve the bill. Taken together, they leave the existing array of responsibilities for the administration of export controls within the executive branch unchanged and impose no new constraints on export licensing. The Secretary of Commerce retains the responsibility for maintaining the export control list, and the responsibility of the Secretary of Defense to identify critical goods and technologies for possible inclusion on that list is made clear.

I note in particular the provision in amendment No. 340 which states that the Secretary of Commerce shall prepare and maintain the control list "subject to the authority of the Secretary of Defense under subsection [4](a)(2)(B)." The cross reference in this provision refers to the authority of the Secretary of Defense, newly recognized by the amendment, to develop a list of militarily critical goods and technologies for possible inclusion on the commodity control list. The present procedure whereby the Secretary of Commerce prepares and maintains the actual commodity control list would not be altered.

I urge the Senate to approve this bill.

SEVERAL SENATORS. Third reading!

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

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

Mr. PERCY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

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

Mr. ROBERT C. BYRD. Mr. President, I wish to thank all Senators who remained here today for their services in disposing of this important piece of legislation.

ORDER TO CONSIDER S. 1309—THE FOOD STAMP BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of this measure the Senate proceed, with the understanding there will be no action thereon tonight, to the consideration of S. 1309, the food stamp bill.

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

The bill having been read the third time, the question is, Shall it pass? All time has been yielded back. The yeas and nays have been ordered and the clerk will call the roll on final passage.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. MELCHER), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. CULVER), the Senator from Montana (Mr. MELCHER), the Senator from North Carolina (Mr. MORGAN), and the Senator from Vermont (Mr. LEAHY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from North Carolina (Mr. HELMS), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 74, nays 3, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—74

Armstrong	Hayakawa	Packwood
Baker	Heinz	Pell
Baucus	Hollings	Percy
Bellmon	Huddleston	Pressler
Boren	Humphrey	Proxmire
Boschwitz	Inouye	Pryor
Bradley	Jackson	Randolph
Bumpers	Javits	Riegle
Byrd, Harry F., Jr.	Jepsen	Roth
	Johnston	Sarbanes
Byrd, Robert C.	Kassebaum	Sasser
Cannon	Laxalt	Schmitt
Chafee	Levin	Schweiker
Chiles	Long	Simpson
Church	Lugar	Stafford
Cranston	Magnuson	Stennis
Danforth	Mathias	Stevenson
DeConcini	Matsunaga	Stewart
Dole	McClure	Stone
Domenici	McGovern	Thurmond
Durkin	Metzenbaum	Tsongas
Eagleton	Moynihan	Wallop
Garn	Muskie	Warner
Glenn	Nelson	Williams
Hatfield	Nunn	Zorinsky

NAYS—3

Goldwater	Hatch	Stevens

NOT VOTING—23

Bayh	Exon	Melcher
Bentsen	Ford	Morgan
Biden	Gravel	Ribicoff
Burdick	Hart	Talmadge
Cochran	Heflin	Tower
Cohen	Helms	Weicker
Culver	Kennedy	Young
Durenberger	Leahy	

So the bill (S. 737) was passed, as follows.

S. 737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Export Administration Act of 1979".

FINDINGS

SEC. 2. The Congress makes the following findings:

(1) The ability of United States citizens to engage in international commerce is a fundamental concern of United States policy.

(2) Exports contribute significantly to the balance of trade, employment, and production of the United States.

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

(4) Exports of goods or technology without regard to whether they make a significant contribution to the military potential of individual countries or combinations of countries may adversely affect the national security of the United States.

(5) The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.

(6) Uncertainty of export control policy can curtail the efforts of American business to the detriment of the overall attempt to improve the trade balance of the United States and to decrease domestic unemployment.

(7) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

(8) It is important that the administration of export controls imposed for national security purposes give special emphasis to the needs to control exports of technology (and goods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to the national security of the United States.

DECLARATION OF POLICY

SEC. 3. The Congress makes following declarations:

(1) It is the policy of the United States to minimize uncertainties in export control policy and to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest.

(2) It is the policy of the United States to restrict the ability to export only after full consideration of the impact on the economy of the United States and only to the extent necessary—

(A) to prevent the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States;

(B) to further significantly the foreign policy of the United States or to fulfill its declared international obligations; and

(C) to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.

(3) It is the policy of the United States (A) to apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to encourage observance

of a uniform export control policy by all nations with which the United States has defense, treaty commitments.

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

(5) It is the policy of the United States—

(A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person;

(B) to encourage and, in specified cases, require United States persons engaged in the export of goods and technology or other information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person; and

(C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular goods or technology or other information to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies and private industry.

(7) It is the policy of the United States to use export controls, including license fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make every reasonable effort to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before resorting to the imposition of controls on exports from the United States. No action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies.

(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls.

(9) It is the policy of the United States to cooperate with other nations with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States or to the security of those countries with which the United States has defense treaty commitments.

AUTHORITY

SEC. 4. (a)(1) To the extent necessary to carry out the policies set forth in section 3 of this Act, the President, by rule or regulation, may prohibit or curtail the export of any goods or technology, or for the purpose of section 6 information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. To the extent necessary to achieve effective enforcement of this Act, these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation thereof by any person. In curtailing exports to carry out the policy set forth in section 3(2)(C) of this Act, the President is authorized and directed to allocate a portion of export licenses on the basis of factors other than a prior history of exportation.

(2)(A) In administering export controls for national security purposes as prescribed in section 3(2)(A) of this Act, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors the President may deem appropriate. The President shall review not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, United States policy toward individual countries to determine whether such policy is appropriate in light of the factors specified in the preceding sentence.

(B) Rules and regulations under this subsection to carry out the policy set forth in section 3(2)(A) of this Act may provide for denial of any request of application for authority to export goods or technology from the United States, its territories and possessions, which would make a significant contribution to the military potential of any nation or combination of nations threatening the national security of the United States if the President determines that their export could prove detrimental to the national security of the United States. In administering export controls for national security purposes as prescribed in section 3(2)(A) of this Act, priority shall be given to preventing the effective transfer to countries to which exports are controlled for national security purposes of goods and technology critical to the design, development, production, or use of existing or potential military systems, including weapons, command, control, communications, intelligence systems, and other military capabilities, such as countermeasures, which would make a significant contribution to the military potential of any nation or nations which could prove detrimental to the national security of the United States. The Secretary of Defense shall bear primary responsibility for identifying such militarily critical goods and technologies. Taking this fully into account, the Secretary of Commerce, in consultation with the Secretary of Defense, shall review and revise not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, export controls maintained for national security purposes pursuant to this Act for the purpose of insuring that such controls cover and (to the maximum extent consistent with the purposes of this Act) are limited to such critical goods and technologies and the mechanisms through which they may be effectively transferred. Rules and Regulations shall reflect the difficulty of devising effective safeguards which would prevent a nation which poses a threat to the United States from diverting critical technologies to military use, the difficulty in devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the re-export of critical technologies from noncontrolled countries to nations that pose a threat to the security of the United States. Such rules and regulations shall not assume that effective safeguards can be devised.

(C) Export controls maintained for foreign policy purposes shall expire on December 31, 1979, or one year after imposition, whichever is later, unless extended by the President in accordance with this subparagraph and subparagraph (D). Any such extension and any subsequent extension shall not be for a period of more than one year. When imposing, increasing, or extending export controls for foreign policy purposes pursuant to the authority provided by this Act, the President shall consider—

(i) alternative means to further the foreign policy purposes in question;

(ii) the likelihood that foreign competitors will join the United States in effectively controlling such exports;

(iii) the probability that such controls will achieve the intended foreign policy purpose;

(iv) the effect of such controls on United States exports, employment, and production, and on the international reputation of the United States as a supplier of goods and technology;

(v) the reaction of other countries to the imposition or enlargement of such export controls by the United States; and

(vi) the foreign policy consequences of not imposing controls.

(D) Whenever the President imposes, increases, or extends export controls for foreign policy purposes pursuant to authority provided by this Act, he shall inform the Congress of his action within thirty days and, to the extent consistent with the national interest, make public a report specifying his conclusions with respect to each of the matters considered as provided in subparagraph (C) of this paragraph and indicating how such export controls will further significantly the foreign policy of the United States or fulfill its declared international obligations.

(E) The President shall not impose export controls for foreign policy or national security purposes on the export from the United States of goods or technology which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States. With respect to controls imposed for national security purposes, a finding of foreign availability which is the basis of a decision to grant a license for, or to remove a control on the export of a good or technology, shall be made in writing and be supported by reliable evidence, such as a scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability. Such sworn representations without adequate independent corroboration shall not constitute reliable evidence. Where, in accordance with this paragraph, export controls are imposed for foreign policy or national security purposes notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. Whenever the President has reason to believe goods or technology subject to export control for national security purposes by the United States may become available to controlled countries from other countries, the President shall promptly initiate negotiations with the governments of such countries to prevent

such foreign availability. In any instance in which such negotiations fail to prevent or secure the removal of such foreign availability and the President requires additional authority to take effective action toward that end, the President shall report fully to the Congress and where appropriate recommend measures to secure the removal of such foreign availability.

(b)(1) Except as otherwise provided in this Act, the Secretary of Commerce shall reorganize the Department of Commerce as necessary to effectuate the policies set forth in this Act. Subject to the authority of the Secretary of Defense under subsection (a)(2)(B) of this section, the Secretary of Commerce shall prepare and maintain a list of goods and technology the export of which from the United States, its territories and possessions, is prohibited or regulated pursuant to this Act. The Secretary shall issue regulations providing for review of such list not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, in order to carry out the policies of this Act, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments with or without oral presentation. Such regulations shall further provide that as part of such review, there shall be an assessment of the availability from surces outside the United States, its territories and possessions, of goods and technology in significant quantities and comparable in quality to those items included on such list. The provisions of this paragraph relating to revisions and changes in such list and assessment of foreign availabilty apply also to the functions of the Secretary of Defense under subsection (a)(2)(B) of this section. In order to further effectuate the policies set forth in this Act, the Secretary shall establish within the Office of Export Administration a capability for monitoring and gathering information on the foreign availability of goods and technology subject to export control.

Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, consistent with the protection of intelligence sources and methods, shall furnish information concerning foreign availability of such goods and technologies to the Office of Exoprt Administration and such Office upon request or where appropriate shall furnish the information it gathers and receives to such departments and agencies.

(2) The Secretary of Commerce shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Secretary shall meet regularly with representatives of the business sector in order to obtain their views on export control policy and the foreign availability of goods and technology.

(c)(1)(A) To effectuate the policies set forth in this Act, the Secretary of Commerce shall establish at least the following three types of licenses in addition to such other types as the Secretary may deem appropriate:

(i) A validated license.

(ii) A qualified general license.

(iii) A general license.

(B) As used in this subsection—

(i) a "validated license" is a license authorizing the export of goods or technology pursuant to an application by an exporter in accordance with rules and regulations issued pursuant to this Act. A validated license may be required for the export of goods and technology subject to multilateral controls in which the United States participates or as determined pursuant to paragraph (2) of this subsection;

(ii) a "qualified general license" is a license authorizing the export to any destination of goods or technology, or a class of goods or technology, subject to the conditions contained in rules and regulations issued pursuant to this Act, including conditions pertaining to approval of the particular consignee and end-use of the goods or technology. The goods and technology subject to control by qualified general license shall be determined pursuant to paragraph (2) of this subsection; and

(iii) a "general license" is a license authorizing the export of a class of goods or technology without specific approval if the export is effected in accordance with the conditions contained in rules and regulations issued pursuant to this Act.

(2) To effectuate the policies set forth in section 3 of this Act, it is the intent of Congress that the use of validated licenses be limited to the greatest extent possible to the control of the export of goods and technology which are subject to multilateral controls in which the United States participates. To the extent that the President determines that the policies set forth in section 3 of this Act require the control of the export of other goods and technology, or more stringent controls than the multilateral controls, he will report to the Congress not later than six months after the date of enactment of this Act, and thereafter in each annual report, the reasons for the need to impose, or to continue to impose, such controls and the estimated domestic economic impact on the various industries affected by such control. It is further the intent of Congress that export controls which exceed the multilateral controls shall be effected to the greatest extent possible consistent with the purposes of this Act by means of qualified general licenses.

(3) Not later than sixty days after the date of enactment of this Act, the Secretary of Commerce shall establish procedures for the approval of goods and technology that may be exported pursuant to a qualified general license.

(d)(1)(A) All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this subsection.

(B) It is the intent of Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other Government agency.

(C) To the extent necessary, the Secretary shall seek information and recommendations from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. These departments and agencies shall cooperate fully in rendering such information and recommendations.

(2) Within ten days after the date on which any export license application is received, the Secretary shall—

(A) send the applicant an acknowledgement of the receipt of the application and the date of the receipt;

(B) submit to the applicant a written description of the procedures required by this subsection, the responsibilities of the Secretary and of other agencies with respect to the application, and the rights of the applicant;

(C) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this subsection;

(D) determine whether it is necessary to submit the application to any other agency and, if such submission is determined to be necessary, inform the applicant of the agency or agencies to which the application will be referred; and

(E) determine whether it is necessary to submit the application to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, if so, inform the applicant of this requirement.

(3) In each case in which the Secretary determines that it is not necessary to submit an application to any other agency for its information and recommendations, a license shall be formally issued or denied within ninety days of the receipt of a properly completed application.

(4) In each case in which the Secretary determines that it is necessary to submit an application to any other agency for its information and recommendations, the Secretary shall, within thirty days of the receipt of a properly completed application—

(A) submit the application together with all necessary analysis and recommendations of the Department of Commerce concurrently to other appropriate agencies; and

(B) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation to be submitted to such other agencies with respect to such application for the purpose of describing the export in question in order to determine whether such documentation accurately describes the proposed export.

(5)(A) Any agency to which an application is submitted pursuant to paragraph (4) shall submit to the Secretary, within thirty days after its receipt of the application, the information or recommendations requested with respect to such application. Except as provided in subparagraph (B), any such agency which does not submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the Secretary to have no objection to the approval of such application.

(B) If the head or acting head of any such agency notifies the Secretary before the expiration of the time period provided in subparagraph (A) for submission of its recommendations that more time is required for review by such agency, such agency shall have an additional thirty-day period to submit its recommendations to the Secretary. If such agency does not so submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the Secretary to have no objection to the approval of such application.

(6)(A) Within ninety days after receipt of other agency recommendations, as provided for in paragraph (5), the Secretary shall formally issue or deny a license. All agency reviews of preliminary decisions and appeals to the appropriate authorities set forth in this Act shall be accomplished within that ninety-day period. In deciding whether to issue or deny a license, the Secretary shall take into account any recommendations of an agency advising on the application in question. In cases where the Secretary receives conflicting recommendations, the Secretary shall, within the ninety days provided for in this subsection, take such action as may be necessary to resolve such conflicting recommendations.

(B) In cases where the Secretary receives questions or negative considerations or recommendations from other agencies advising on an application, the Secretary shall, to the maximum extent consistent with the national security or foreign policy of the United States, inform the applicant of the specific

questions raised and any negative considerations or recommendations made by an agency, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations.

(C) In cases where the Secretary has determined that an application should be denied, at the time of the formal denial, the applicant shall be informed, in writing within five days of such decision of the statutory basis for denial, the policies set forth in section 3 of the Act which would be furthered by denial, and, to the extent consistent with national security and foreign policy, the specific considerations which led to the denial, and of the availability of appeal procedures. In the event decisions on license applications are deferred inconsistent with the provisions of this subsection, the applicant shall be informed in writing within five days of such deferral. The Secretary shall establish appropriate procedures for applicants to appeal such deferrals or denials.

(D) If the Secretary determines that a particular application or set of applications is of exceptional importance in complexity, and that additional time is required for negotiations to modify the application or applications, or otherwise to arrive at a decision, the Secretary may extend any time period prescribed in this subsection. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor.

(7) A) Notwithstanding any other provision of this subsection, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

(B) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the Secretary, and confirm in writing the types and categories of transactions which should be reviewed by him in order to make a determination referred to in subparagraph (A). Whenever a license or other authority is requested for the export to any country to which exports are controlled for national security purposes of goods or technology within any such type or category, the Secretary shall notify the Secretary of Defense of such request, and the Secretary may not issue any license or other authority pursuant to such request before the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this subparagraph and, not later than thirty days after notification of the request, shall—

(i) recommend to the President that he disapprove any request for the export of any goods or technology to any such country if he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

(ii) notify the Secretary that he would recommend approval subject to specified conditions; or

(iii) recommend to the Secretary that the export of goods or technology be approved.

If the President notifies the Secretary, within thirty days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country.

(C) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this paragraph, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this subsection.

(D) Whenever the President exercises his authority under this paragraph to modify or overrule a recommendation made by the Secretary of Defense or exercises his authority to modify or overrule any determination made by the Secretary of Defense pursuant to section 4(a)(2)(B) or 4(b)(1) of this Act with respect to list of goods and technologies controlled for national security purposes, the President shall promptly transmit to the Congress a statement indicating his decision, together with the recommendation of the Secretary of Defense.

(8) In any case in which an application, which has been finally approved under paragraph (4), (7), or (8) of this subsection, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such paragraphs, but the Secretary shall notify the applicant of the approval (and the date of such approval) of the application by the Secretary subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review.

(9) The Secretary and any agency to which any application is referred under this subsection shall keep accurate records with respect to all applications considered by the Secretary or by any such agency, including the factual and analytical basis for the decision, together with any dissenting recommendations received from any agency.

(10) The Secretary shall establish appropriate procedures for applicants to appeal denials of export licenses. In any case where the absence of a license approval exists because of agency action or inaction that clearly conflicts with the procedures, standards, or policies of this Act, the applicant may file a petition with the Secretary requesting that such action or inaction be brought in conformity with the appropriate provisions of this Act. When such petition is filed, the Secretary shall determine the validity of the petition and, if valid, shall take appropriate corrective action.

(e)(1) To effectuate the policy set forth in section 3(2)(C) of this Act, the Secretary of Commerce shall monitor exports, and contracts for exports, of any goods (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy, or any sector thereof. Such monitoring shall commence at a time adequate to insure that data will be available which is sufficient to permit achievement of the policies of this Act, and shall include the gathering of data concerning the volume of exports indicated under all contracts providing for the export of such goods following the date of the filing of the petition under section 8(a)(1). Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection and in the last two sentences of section 11(c) of this Act.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each item monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports.

(f) In imposing export controls to effectuate the policy stated in section 3(2)(C) of this Act, the President's authority shall include but not be limited to, the imposition of export license fees.

(g)(1) Notwithstanding any other provision of this Act and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), no domestically produced crude oil transported by pipeline over right-of-way granted pursuant to the requirements of section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653) (except any such crude oil which (A) is exported, for the purpose of effectuating an exchange in which the crude oil is exported to an adjacent foreign state to be refined and consumed therein, in exchange for the same quantity of crude oil being exported from that state to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in paragraph (2)(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) the President makes and publishes an express finding that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) will, within three months following the initiation of such exports or exchanges, result in (a) acquisition costs to the refiners being lower than the acquisition costs such refiners would have to pay for the domestically produced crude oil in the absence of such an export of exchange and (b) that not less than 75 per centum of the savings shall be reflected in reduced wholesale and retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contract which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(iv) are clearly necessary to protect the national interest; and

(v) are in accordance with the provisions of this Act; and

(B) the President reports such finding to the Congress and the report is approved in accordance with paragraph (3).

(3) The report of the findings of the President required by paragraph (2) shall be considered approved, and shall take effect at the end of the first period of sixty calendar days of continuous session of the Congress after such report is submitted, unless the House of Representatives and the Senate adopt a resolution during such period stating that it does not favor such findings. For the purposes of this paragraph—

(A) continuity of a session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment for more than three days to a day certain are excluded in computing the sixty-day period.

(4) A resolution under paragraph (3) shall be considered in accordance with the procedures established by section 551 of the Energy Policy and Conservation Act.

(5) Notwithstanding the foregoing provisions of this subsection or any other provision of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act; *Provided*, That the President promptly notifies Congress of each such agreement.

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

(i)(1) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by him to be in excess of the requirements of the domestic economy, except to the extent the President determines that such exercise of authority is required to effectuate the policies set forth in sections 3(2) (A) or (B) of this Act.

(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 county 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)(C) of this Act subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assuance and, in conjunction with the Secretary of Agriculture, finds (A) that such commodities will eventually be exported, (B) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (C) that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (D) 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 paragraph.

(3)(A) The Secretary of Commerce shall transmit to the House of Representatives and the Senate a summary of any proposed exercise of the authority conferred by this section with regard to agricultural commodities.

(B)(i) Except as provided in subparagraph (ii), such proposal shall not become effective if within sixty calendar days of continuous session of the Congress after the date of transmittal of the proposal to the Congress, the House agrees to a resolution of disapproval and at the end of thirty additional such calendar days after the date of transmittal of the resolution of disapproval to the other House of Congress, such other House has not passed a resolution disapproving such resolution.

(ii) Notwithstanding subparagraph (i), if at the end of sixty calendar days of continuous session of the Congress after the date of transmittal of the proposal to the Congress, neither House has agreed to a resolution of disapproval concerning such proposal, and the committee to which a resolution of disapproval concerning such proposal has been referred has not reported and has not been discharged from further consideration of such a resolution, such proposal shall be effective at the end of such sixty-day period or such later date as may be prescribed by such proposal.

(C) For the purposes of this chapter—

(i) continuity of session is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of calendar days of continuous session.

(D) The provisions of this section are enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this paragraph; and they supersede other rules only to the extent that they are inconsistent therewith;

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House; and

(iii)(I) resolutions of disapproval, and resolutions disapproving a resolution of disapproval in the other House shall, upon introduction, be immediately referred by the presiding officer of the Senate or of the House of Representatives to the appropriate standing committee of the Senate or the House of Representatives;

(II) if the committee to which a resolution has been referred does not report a resolution within forty-five calendar days of continuous session of Congress after the date of transmittal of the proposal to which such resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution; and

(III) such motion to discharge must be supported by one-fifth of the Members of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after a resolution of disapproval has been reported with respect to the same proposal); and debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees.

An amendment to the motion is not in order.

(E)(i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, consideration of a resolution of disapproval shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

(ii) When the committee has reported or has been discharged from further consideration of a resolution with respect to a proposal, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order.

(iii) Debate on the resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not in order. An amendment to, or motion to recommit the resolution is not in order.

(j) Nothing in this Act or the rules or regulations thereunder shall be construed to require authority or permission to export, except where required by the President to effect the policies set forth in section 3 of this Act.

(k) The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may deem appropriate, except that no authority under this Act may be delegated to, or exercised by, any official of any department or agency the head of which is not appointed by and with the advice and consent of the Senate. The President may not delegate or transfer his power, authority, and discretion to overrule or modify any recommendation or decision made by the Secretary of Commerce, the Secretary of Defense, and Secretary of State pursuant to the provisions of this Act.

(l)(1) Any United States firm, enterprise, or other nongovernmental entity which, for commercial purposes, enters into an agreement with an agency of a government in another country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement calling for the encouragement of technical cooperation and is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report such agreement to the Secretary of Commerce.

(2) The provisions of this subsection shall not apply to colleges, universities, or other educational institutions.

(3) The Secretary of Commerce is authorized to issue such rules and regulations as are necessary to implement the provisions of this subsection.

(m) The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for negotiations with other countries regarding their cooperation in restricting the export of goods and technologies whose export should be restricted pursuant to section 3(9) of this Act, as authorized under section 4(a)(1) of this Act, including negotiations on the basis of approved administration positions as to which goods and technologies should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.

(n) The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee (hereinafter in this subsection referred to as the "Committee") with a view toward reaching—

(A) an agreement to publish the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such list, and all changes thereto;

(B) an agreement to hold periodic meetings of such governments with high-level representation from such governments, for the purpose of providing guidance on export control policy issues to the Committee;

(C) an agreement to modify the scope of the export controls imposed by agreement of the Committee to a level accepted and enforced by all governments participating in the Committee; and

(D) an agreement on more effective procedures for enforcing the export controls agreed to pursuant to subparagraph (C).

(o) In order to assure that requirements for national security controls are removed when no longer necessary, the Secretary of

Commerce shall adopt regulations which eliminate unnecessary delay in implementing decisions reached, according to law, to remove or relax such controls. Consideration shall also be given by the Secretary, where appropriate, to removing site visitation requirements for goods and technology which are removed from the above-mentioned list unless objections described in this subsection are raised.

DISAPPROVAL OF LICENSE FOR THE EXPORT OF GOODS OR TECHNOLOGY TO COUNTRY WHICH SUPPORT ACTS OF INTERNATIONAL TERRORISM

SEC. 5. (a) The Secretary of Commerce shall approve no license for the export of goods or technology to any country with respect to which the Secretary of State has made the following determinations:

(1) that such country has demonstrated a pattern of support for acts of international terrorism, and

(2) that the exports in question would make a significant contribution to the military potential of such country or would otherwise enhance its ability to support acts of international terrorism.

(b) The President may suspend the applicability of paragraph (a) of this section with respect to any particular country or any particular transaction if he finds that the national interest so require.

(p)(1) Notwithstanding any other provision of this Act, no horse may be exported by sea from the United States, its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under paragraph (2) of this subsection.

(2) The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue rules and regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

(q)(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand, and such other countries as the President shall designate consistent with the purposes of this subsection 502(b) of the Foreign Assistance Act of 1961, as amended.

FOREIGN BOYCOTTS

SEC. 6. (a)(1) For the purpose of implementing the policies set forth in section 3 (5), (A) and (B), the President shall issue rules and regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of rules and regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycottng country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary of Commerce.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activties of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by rules and regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Rules and regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms on or after June 22, 1978, other than with respect to carriers or route of shipment as may be permitted by such rules and regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such rules and regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his own use, including the performance of contractual services within that country, as may be defined by such rules and regulations.

(3) Rules and regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) Rules and regulations pursuant to this subsection shall be issued not later than ninety days after the date of enactment of this section and shall be issued in final form and become effective not later than one hundred and twenty days after they are first issued, except that (A) rules and regulations prohibiting negative certification may take effect not later than one year after the date of enactment of this section, and (B) a grace period shall be provided for the application of the rules and regulations issued pursuant to this subsection to actions taken pursuant to a written contract or other agreement entered into on or before May 16, 1977. Such grace period shall end on December 31, 1978, except that the Secretary of Commerce may extend the grace period for not to exceed one additional year in any case in which the Secretary finds that good faith efforts are being made to renegotiate the contract or agreement in order to eliminate the provisions which are inconsistent with the rules and regulations issued pursuant to paragraph (1).

(6) This Act shall apply to any transaction or activity undertaken, by or through a United States or other person, with intent to evade the provisions of this Act as implemented by the rules and regulations issued pursuant to this subsection, and such rules and regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b)(1) In addition to the rules and regulations issued pursuant to subsection (a) of this section, rules and regulations issued under section 4(a) of this Act shall implement the policies set forth in section 3(5).

(2) Such rules and regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) shall report that fact to the Secretary of Commerce, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the policies of that

section. Such person shall also report to the Secretary of Commerce whether he intends to comply and whether he has complied with such request. Any report filed pursuant to this paragraph after the date of enactment of this section shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any goods or technology to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary of Commerce shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies set forth in section 3(5) of this Act.

(c) The provisions of this section and the rules and regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the sevaral States or the District of Columbia, and any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

SEC. 7. (a) Any person who, in his domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a commodity historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a commodity, may transmit a petition of hardship to the Secretary of Commerce requesting an exemption from such controls in order to alleviate any unique hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Secretary of Commerce shall prescribe and shall contain information demonstrating the need for the relief requested.

(b) Not later than thirty days after receipt of any petition under subsection (a), the Secretary of Commerce shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Secretary's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Secretary deems appropriate.

(c) For purposes of this section, the Secretary's decision with respect to the grant or denial of relief from unique hardship resulting directly or indirectly from the imposition of controls shall reflect the Secretary's consideration of such factors as—

(1) whether denial would cause a unique hardship to the petitioner which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Secretary will take into account:

(A) ownership of material for which there is no practicable domestic market by virtue of the location or nature of the material;

(B) potential serious financial loss to the applicant if not granted an exception;

(C) inability to obtain, except through import, an item essential for domestic use which is produced abroad from the commodity under control;

(D) the extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

(E) possible adverse effects on the economy (including unemployment) in any locality or region of the United States; and

(F) other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular commodity; and (2) the effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

In all cases, the desire to sell at higher prices and thereby obtain greater profits will not be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the petitioner.

PETITIONS FOR MONITORING OR CONTROLS

SEC. 8. (a) (1) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes any material or commodity for which an increase in domestic prices or a domestic shortage has or may have a significant adverse effect on the national economy or any sector thereof may transmit a written petition to the Secretary of Commerce requesting the imposition of export controls, or the monitoring of exports, or both, with respect to such material or commodity.

(2) Each petition shall be in such form as the Secretary of Commerce shall prescribe and shall contain information in support of the action requested. The petition shall include information reasonably available to the petitioner indicating (A) that there has been a significant increase over a representative period in exports of such material or commodity in relation to domestic supply, and (B) that there has been a significant increase in the price of such material or commodity under circumstances indicating that the price increase may be related to exports.

(b) Within fifteen days after receipt of any petition described in subsection (a), the Secretary of Commerce shall cause to be published a notice in the Federal Register. The notice shall include (1) the name of the material or commodity which is the subject of the petition, (2) the Schedule B number of the material or commodity as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported From the United States, (3) notice of whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material or commodity, and (4) notice that interested persons shall have a period of thirty days commencing with the date of publication of such notice to submit to the Secretary of Commerce written data, views, or arguments, with or without opportunity for oral presentation. At the request of the petitioner or any other entity described in subsection (a) (1) with respect to the material or commodity which is the subject of the petition or at the request of any entity represenative of the producers or exporters of such material or commodity, the Secretary shall conduct public hearings with respect to the subject of the petition, in which event the thirty-day period shall be extended to forty-five days.

(c) Within forty-five days after the end of the thirty-day or forty-five-day period described in subsection (b) or within seventy-five days of publication of the petition in the Federal Register, whichever is the later, the Secretary of Commerce shall—

(1) determine whether to impose monitoring or controls or both on the exportation of such material or commodity; and

(2) publish in the Federal Register a detailed statement of the reasons for such determination.

(d) Within fifteen days following a decision under subsection (c) to impose monitoring or controls on the exportation of a material or commodity, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within thirty days following the publication of such notice, and after considering any public comments, the Secretary shall publish and implement final regulations.

(e) For the purposes of publishing notices in the Federal Register and the scheduling of public hearings, the Secretary shall have the authority to consolidate petitions and responses thereto with respect to the same or related commodities.

(f) If a petition has been fully considered under this section and a notice has been published with respect to a particular commodity or group of commodities and in the absence of significantly changed circumstances, the Secretary shall have authority to determine that a petition for monitoring or control of such commodity or commodities does not merit the full consideration mandated under this section.

(g) The procedures and time limits set forth in this section shall take precedence over any review undertaken at the initiative of the Secretary.

(h) The Secretary shall have the authority to impose monitoring or controls on a temporary basis during the period following the filing of a petition under subsection (a)(1) and the Secretary's determination under subsection (c) if the Secretary deems such action to be necessary to effectuate the policy set forth in section 3(2)(C) of this Act. If such authority is used the Secretary shall afford interested persons an opportunity to submit written comments thereon and such comments shall be considered by the Secretary in making the determination required under subsection (c) and in the development of any final regulations.

(i) The authority under this section shall not be construed to affect the authority of the Secretary of Commerce under section 4(e)(1) or any other provision of this Act.

(j) The provisions of this section shall not apply to any agricultural commodity.

(k) Nothing contained in this section shall be construed to preclude submission on a confidential basis to the Secretary of Commerce of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, nor consideration of such information by the Secretary in reaching decisions required under this section. The provisions of this subsection are not intended to change the applicability of section 552(b) of title 5, United States Code.

CONSULTATION AND STANDARDS

SEC. 9 (a) In determining what shall be controlled or monitored under this Act, and in determining the extent to which exports shall be limited, and department, agency, or official making these determinations shall seek information and advice from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. Such departments and agencies shall fully cooperate in rendering such advice and information. Consistent with considerations of national security, the President shall seek information and advice from various segments of private industry in connection with the making of these determinations. In addition, the Secretary of Commerce shall consult with the Secretary of Energy to determine whether, in order to effectuate the policy stated in section 3(2)(C) of this Act,

monitoring or controls are necessary with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gassification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.

(b)(1) In authorizing exports, full utilization of private competitive trade channels shall be encouraged insofar as practicable, giving consideration to the interests of small business, merchant exporters as well as producers, and established and new exporters, and provision shall be made for representative trade consultation to that end. In addition, there may be applied such other standards or criteria as may be deemed necessary by the head of such department, or agency, or official to carry out the policies of this Act.

(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy stated in section 3(2)(C) of this Act, the Secretary of Commerce shall include in the notice published in the Federal Register an invitation to all interested parties to submit written comments within fifteen days from the date of publication of the impact of such restrictions and the method of licensing used to implement them.

(c)(1) Upon written request by representatives of a substantial segment of any industry which produces goods or technology which are subject to export controls or are being considered for such controls because of their significance to the national security of the United States, or whenever he deems appropriate to further the purposes of this Act, the Secretary of Commerce shall appoint a technical advisory committee for any grouping of such goods or technology which he determines is difficult to evaluate because of questions concerning technical matters, worldwide availability and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and government, including the Departments of Commerce, Defense, and State, and, when appropriate, after Government departments and agencies. No person serving on any such committee who is representative of indsutry shall serve on such committee for more than four consecutive years.

(2) It shall be the duty and function of the technical advisory committees established under paragraph (1) to advise and assist the Secretary of Commerce and any other department, agency, or official of the Government of the United States to which the President has delegated power, authority, and discretion under section 4(e) with respect to actions designed to carry out the policy set forth in section 3 of this Act. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. Nothing in this subsection shall prevent the Secretary from consulting, at any time, with any person representing industry or the general public regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary of Comerce, to present evidence to such committees.

(3) Upon request of any member of any such committee, the Secretary may, if he determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by him in connection with his duties as a member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the Chairman, unless the Chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this Act. Each such committee shall be terminated after a period of two years, unless extended by the Secretary for additional periods of two years. The Secretary shall consult each such committee with regard to such termination or extension of that committee.

(5) To facilitate the work of the technical advisory committees, the Secretary of Commerce, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each committee adequate information, consistent with national security and foreign policy, pertaining to the reasons for the export controls which are in effect or contemplated for the grouping of goods or technology with respect to which that committee furnishes advice.

(6) Whenever a technical advisory committee certifies to the Secretary of Commerce that goods or technology are available in fact from sources outside the United States in sufficient quantity and of comparable quality so as to render United States export controls ineffective in achieving the purposes of this Act, and provides adequate documentation for such certification, the Secretary of Commerce shall investigate and report to the technical advisory committee on whether the Secretary concurs with the certification. If the Secretary concurs, the Secretary shall submit a recommendation to the President who shall act in accordance with section 4(a)(2)(E) of this Act.

(d) The Secretary of Defense shall have the same authorities and responsibilities as the Secretary of Commerce under paragraphs (1) through (5) of subsection (c) in order to carry out his responsibilities under this Act.

VIOLATIONS

SEC. 10. (a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.

(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or $100,000, whichever is greater, or imprisoned not more than ten years, or both.

(c)(1) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(2)(A) The authority under this Act to suspend or revoke the authority of any United States person to export goods or technology may be used with respect to any violation of the rules and regulations issued pursuant to section 5(a) of this Act.

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the rules and regulations issued pursuant to section 6(a) of this Act may be imposed only after notice and opoprtunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the rules and regulations issued pursuant to section 6(a) of this Act shall be made available for public inspection and copying.

(d) The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a 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.

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

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

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

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

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

SEC. 11. (a) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the

books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

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

(c) Except as otherwise provided by the third sentence of section 6(b)(2) and by section 10(c)(2)(C) of this Act, information obtained prior to June 30, 1980, under this Act, which is deemed confidential, including Shippers' Expert Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552(b)(3)(B) of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary of Commerce determines that the withholding thereof is contrary to the national interest. Information obtained after June 30, 1980, under this Act may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning, license applications under this Act shall be withheld from public disclosure unless the release of such information is determined by the Secretary of Commerce to be in the national interest. Enactment of this subsection shall not affect any judicial proceeding commenced under section 552 of title 5, United States Code, to obtain access to boycott reports submitted prior to October 31, 1976, which was pending on May 15, 1979; but such proceeding shall be continued as if this Act had not been enacted.

Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under section 4(b), shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.

(d) In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 12. (a) Except as provided in section 10(c)(2), the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) It is the intent of Congress that, to the extent practicable, all regulations imposing controls on exports under this Act be issued in proposed form with meaningful opportunity for public comment before taking effect. In cases where a regulation imposing controls under this Act is issued with immediate effect, it is the intent of Congress that meaningful opportunity for public comment also be provided and that the regualtion be reissued in final form after public comments have been fully considered. The Secretary shall include in the annual report required by this Act a detailed accounting of the issuance of regulations under the authority of this Act, including an explanation of each case in which regulations were not issued in accordance with the first sentence of this subsection.

ANNUAL REPORT

SEC. 13. (a) The Secretary of Commerce shall make an annual report to the President and to the Congress on the implementation of this Act.

(b) Each annual report shall include an accounting of—

(1) actions taken by the President and the Secretary of Commerce to effect the antiboycott policies set forth in section 3(5) of this Act;

(2) organizational and procedural changes instituted and any reviews undertaken in furtherance of the policies set forth in this Act;

(3) efforts to keep the business sector of the Nation informed about policies and procedures adopted under this Act;

(4) any changes in the exercise of the authorities of section 4(a) of this Act;

(5) the results of review of United States policy toward individual countries called for in section 4(a)(2)(A);

(6) the results, in as much detail as may be included consistent with the national security and the need to maintain the confidentiality of proprietary information, of the actions, including reviews and revisions of export controls maintained for national security purposes, required by section 4(a)(2)(B);

(7) actions taken pursuant to section 4(b)(1), including changes made in control lists and assessments of foreign availability;

(8) evidence demonstrating a need to impose export controls for national security or foreign policy purposes in the face of foreign availability as set forth in section 4(a)(2)(E);

(9) the information contained in the reports required by section 4(e)(2) of this Act, together with an analysis of—

(A) the impact on the economy and world trade of shortages or increased prices for commodities subject to monitoring under this Act or section 812 of the Agricultural Act of 1970;

(B) the worldwide supply of such commodities; and

(C) actions being taken by other nations in response to such shortages or increased prices;

(10) delegations of authority by the President as provided for under section 4(k) of this Act;

(11) the progress of negotiations under section 4(n) of this Act;

(12) the number and disposition of export license applications taking more than ninety days to process pursuant to section 4(d) of this Act;

(13) consultations undertaken with technical advisory committees pursuant to section 9(c) of this Act, the use made of advice given, and the contribution such committees made in carrying out the policies of this Act;

(14) violations of the provisions of this Act and penalties imposed pursuant to this Act; and

(15) any revisions to reporting requirements prescribed in section 11(d).

(c) The heads of other involved departments and agencies shall fully cooperate with the Secretary of Commerce in providing all information required by the Secretary of Commerce to complete the annual reports.

DEFINITIONS

SEC. 14. As used in this Act—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

(2) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic estabilshment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

(3) the term "goods" means any article, material, supply or manufactured product, including inspection and test equipment, and excluding technical data; and

(4) the term "technology" means the information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves.

EFFECTS ON OTHER ACTS

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

(b) The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(c) On October 1, 1979, the Mutual Defense Assistance Control Act of 1951, as amended (22 U.S.C. 1611–1613d), is superseded.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. (a) Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act for any fiscal year commencing on or after October 1, 1980, unless previously and specifically authorized by legislation.

(b) There are authorized to be appropriated to the Department of Commerce $8,000,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs) for fiscal year 1980 to carry out the purposes of this Act, of which $1,250,000 shall be available only for purposes of establishing and maintaining the capability to make foreign availability assessments called for by section 4(b)(1).

(c) There are authorized to be appropriated to the Department of Defense $2,500,000 for fiscal year 1980 to carry out its functions under subsection 4(a) of this Act.

EFFECTIVE DATE

SEC. 17. (a) This Act takes effect upon the expiration of the Export Administration Act of 1969.

(b) All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 or section 6 of the Act of July 2, 1940 (54 Stat. 714), or the Export Administration Act of 1969 shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act.

TERMINATION DATE

SEC. 18. The authority granted by this Act terminates on September 30, 1983, or upon any prior date which the President by proclamation may designate.

The title was amended so as to read: "A bill to provide authority to regulate exports, improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I congratulate the distinguished chairman of the Subcommittee on International Finance of the Banking Committee, Mr. STEVENSON, for his leadership and extensive work on the Export Administration Act of 1979. He has guided the Senate in its consideration of a matter of the most vital importance for our Nation.

The U.S. Government needs the authority to impose export controls for the purpose of pursuing national security, foreign policy, and domestic economic goals. Particularly in the area of critical technology, we require controls on exports which could make a significant contribution to the military potential of adversary nations. At the same time, recognizing that restrictions on U.S. exports from the United States can have serious adverse effects on our balance of payments and on the availability of jobs for American workers, we must strive to limit restrictions on exports to those absolutely necessary.

The Senator from Illinois, together with the ranking minority member of the subcommittee, Mr. HEINZ, and the other members of the Banking Committee, have carefully evaluated these issues. In developing the Export Administration Act of 1979, they sought to maintain the balance between our need to protect critical technology from our adversaries with the need to allow and encourage U.S. foreign trade.

Mr. President, the task before the drafters of S. 737 was no easy one. They are to be congratulated for a job well done.

Mr. MAGNUSON. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. I yield to the Senator from Washington.

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. MAGNUSON. Mr. President, as much as I hate to revive the Labor-HEW appropriations bill, I must.

This will correct a printing error in the bill.

It conforms with the action taken by the subcommittee, approved by the full committee, and explained fully on page 27 of the report.

Senator MATHIAS had moved this deletion of bill language in the committee. I believe Senator KASSEBAUM also had an interest in this matter.

While the committee was supportive of the "intent" of the House action, such a broad, all-inclusive prohibition went too far. The Department of HEW was off-base in their interpretation of existing law and corrective action is taking place.

This technical amendment will merely bring the Senate-passed bill into conformation with the action taken by the committee and adopted Thursday and Friday during consideration of H.R. 4389.

There is a printer's error in the Labor-HEW appropriations bill, H.R. 4380, which the Senate passed last night and I move the following technical amendment.

On page 53, strike out lines 8 through 11.

This was the intent of the Senate.

The amendment was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 263.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, my reservation was for the purpose of advising the majority leader that the calendar item is cleared on this side and we have no objection to consideration and passage.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. 195) waiving section 402 (a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1309.

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

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

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. 195) was agreed to as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of that Act are waived with respect to the consideration of S. 1309, a bill to increase the fiscal year 1979 authorization for appropriations for the food stamp program. Such waiver is necessary because S. 1309 authorizes the enactment of new budget authority that would first become available in fiscal year 1979, and the bill was reported after May 15, 1978.

S. 1309 is emergency legislation that would authorize increased appropriations for the 1979 food stamp program. The amount of appropriations currently authorized for the 1979 program will not be sufficient to provide participants in the food stamp program with full program benefits through the end of the 1979 fiscal year.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 30 minutes and that Senators may speak therein up to 15 minutes each.

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

The Senator from New York.

FORMER SECRETARY OF TRANSPORTATION BROCK ADAMS

Mr. MOYNIHAN. Mr. President, I rise to call attention and to pay tribute to an extraordinary act of political integrity and of constitutional insight that occurred yesterday when Mr. Brock Adams, formerly a member of the House of Representatives and until yesterday a member of the President's Cabinet as Secretary of Transportation, chose to leave the Cabinet rather than to submit to conditions which in his view were incompatible with the institution as we have known it and in which he has served with such distinction as Secretary of Transportation.

This morning, Mr. President, there was an editorial in The Washington Post praising the Transportation Secretary for his courage under pressure and the clarity of his understanding of his role.

I ask unanimous consent that this editorial be printed in the RECORD.

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

. . . AND A CLASS ACT AT DOT

Transportation Secretary Brock Adams acted with class. He was a good team player for two and a half years. But the president misjudged the man if he assumed that Mr. Adams would react gratefully or compliantly to the declaration that he could stay at DOT only if he would just jettison some of his top staff. Mr. Adams's reply was that he, too, had a few points to get settled before he made up his mind.

The most refreshing aspect of his rejoinder was that it reached beyond conflicts of personnel and personalities to the issues on which Mr. Adams has felt most frustrated: promotion of mass transit and development of a more efficient automobile.

On both questions, Mr. Adams has been very strong—and very right. He drove this region's Metro system through the most searching reexamination that it has ever received—because he wanted to ensure its success. For three years, too, he has been arguing for a larger federal investment in mass transit nationwide. Just last weekend it seemed that energy problems had finally

while the final financial arrangements are being resolved.

UNITED STATES RAILWAY ASSOCIATION

The bill allocates $23.9 million for the administrative expenses of USRA and $550 million for the purchase of ConRail securities. The committee is conscious of the need to hold down litigation costs and feels that the recommended amount is sufficient to effectively litigate the issue of valuation of the assets transferred from the bankrupt railroads to ConRail.

The committee is concerned about the windfall which has inured to many ConRail employees as a result of title V employee protection payments. Consequently, we have placed a limitation in the bill which prevents payments from passing under title V after December 31, 1979, unless an employee has been actually deprived of employment, or if one's employment has been materially diminished.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

Finally, our bill provides for an increase of $14,187,000 over the budget estimate for fiscal year 1980 for WMATA. Prior to the distribution of these funds, the Secretary is permitted to establish terms and conditions that the local government must meet in order to obtain these funds. This is consistent with the need to exercise close control over the financing of the necessary capital and operating costs of the system.

THE SAINT LAWRENCE SEAWAY

The Saint Lawrence is recommended to receive the full Presidential budget request of $1,372,000 to pay for the operation and maintenance of the St. Lawrence Seaway between Montreal and Lake Erie.

CONCLUSION

Due to the recent upsurge in mass transit ridership, and the ever constricting energy supply and hints of a future recession, the subcommittee has felt it necessary to alter its original recommendation and urge the increased funding of this labor intensive enterprise; therefore, the subcommittee is requesting an additional funding of $242.5 million. Likewise, Amtrak has also felt these same pressures, and the subcommittee is urging additional funding of $40 million. The cumulative impact of these major amendments is an increase of $282.5 million over the committee's original request.

I say to my colleagues this represents, in my judgment, a well balanced budget for fiscal year 1980 for the Department of Transportation and related agencies.

Before yielding the floor, let me express my gratitude for the manner in which the distinguished chairman of the Appropriations Committee (Mr. WHITTEN) has carried out his responsibilities this year. He has done a remarkable job in seeing that the hearings, markups and so-forth of appropriations bills are conducted in a manner that enables the appropriations process to meet the many deadlines and schedules that are set for us.●

● Mr. OBERSTAR. Mr. Chairman, during the markup of the Coast Guard fiscal year 1980 authorization, I offered an amendment in the Merchant Marine and Fisheries Committee to authorize $500,000 for a fixed aid-to-navigation in the St. Mary's River in Michigan.

The Subcommittee on Transportation Appropriations met to consider the fiscal year 1980 appropriations bill prior to enactment of this authorization. The legislation before the House today does not appropriate any funds specifically for the fixed aid-to-navigation.

The committee report does, however, note the authorization and state that sufficient unobligated funds exist in the Coast Guard appropriation to install the fixed aid-to-navigation. I will be working in the new fiscal year to encourage the Coast Guard to act to install the fixed aid. The Coast Guard itself has identified the need for 10 fixed aids in conjunction with the extended shipping season program on the Great Lakes.

In authorizing one fixed aid, the Merchant Marine and Fisheries Committee recognized the critical importance of the Pt. aux Frenes site. In recent years, two ore boats have grounded in late season with estimated damages in excess of $3 million. The weather conditions of late fall and winter require the fixed aid at Pt. aux Frenes.

The Coast Guard has a suitable design for the fixed aid.

While the initial cost of the aid is, of course, higher than the buoys, the maintenance costs are far less. The fixed aids are not removed in late fall and returned in the spring as the buoys are. The buoys also suffer considerable damage from ice at the end of the navigation season.

The fixed aid would be a wise use of unobligated funds.●

Mr. DUNCAN of Oregon. Mr. Chairman, I have no further requests for time.

Mr. COUGHLIN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DUNCAN of Oregon. I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 4440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes, namely:

Mr. DUNCAN of Oregon. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. STUDDS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4440) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. DUNCAN of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 4440.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whose House on the State of the Union for the consideration of the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CARNEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 217, nays 5, not voting 212, as follows:

[Roll No. 370]

YEAS—217

Abdnor	English	Kostmayer
Akaka	Erdahl	Kramer
Ambro	Ertel	Lagomarsino
Anderson, Ill.	Evans, Ind.	Leach, Iowa
Annunzio	Fenwick	Lehman
Atkinson	Findley	Leland
Bafalis	Fisher	Levitas
Bailey	Fithian	Lewis
Barnard	Flippo	Livingston
Barnes	Florio	Loeffler
Bauman	Foley	Long, La.
Beard, R.I.	Fountain	Lowry
Bedell	Fowler	Lujan
Benjamin	Frenzel	Lungren
Bennett	Fuqua	McClory
Bereuter	Gaydos	McCloskey
Bethune	Gephardt	McCormack
Bevill	Ginn	McHugh
Biaggi	Gonzalez	McKinney
Bingham	Gore	Maguire
Blanchard	Gradison	Markey
Boggs	Gramm	Marlenee
Bonior	Grassley	Mathis
Bonker	Guarini	Mazzoli
Bouquard	Guyer	Mica
Bowen	Hall, Ohio	Mikulski
Brademas	Hamilton	Miller, Calif.
Brodhead	Hance	Miller, Ohio
Brooks	Hansen	Mineta
Brown, Calif.	Harkin	Mitchell, N.Y.
Brown, Ohio	Harris	Moffett
Carter	Hawkins	Mollohan
Cavanaugh	Hightower	Montgomery
Chappell	Hinson	Moore
Coelho	Hopkins	Moorhead, Calif.
Collins, Tex.	Horton	Murphy, Pa.
Conable	Hubbard	Murtha
Corcoran	Hyde	Myers, Ind.
Corman	Ichord	Natcher
Coughlin	Ireland	Neal
Courter	Jacobs	Nichols
Daniel, R. W.	Jeffords	Oakar
Dannemeyer	Jeffries	Oberstar
Daschle	Jenrette	Obey
de la Garza	Johnson, Calif.	Paul
Deckard	Jones, N.C.	Pease
Dingell	Jones, Okla.	Perkins
Dixon	Jones, Tenn.	Peyser
Donnelly	Kastenmeier	Pickle
Drinan	Kazen	Price
Duncan, Oreg.	Kelly	Pritchard
Duncan, Tenn.	Kemp	Rangel
Edgar	Kildee	Ratchford
Edwards, Calif.	Kogovsek	

Reuss	Smith, Nebr.	Van Deerlin
Rinaldo	Solarz	Vento
Roberts	Spellman	Volkmer
Robinson	Spence	Walgren
Roth	St Germain	Wampler
Roybal	Stack	Watkins
Runnels	Staggers	Weaver
Sabo	Steed	White
Santini	Stenholm	Whitehurst
Satterfield	Stewart	Williams, Mont.
Seiberling	Stockman	Wilson, Tex.
Sensenbrenner	Stratton	Wolff
Sharp	Studds	Wolpe
Shelby	Swift	Wright
Shumway	Synar	Wyatt
Simon	Tauke	Yatron
Skelton	Taylor	Young, Mo.
Slack	Thomas	Zablocki
Smith, Iowa	Trible	

NAYS—5

Carney	Holt	Mitchell, Md.
Derwinski	McDonald	

NOT VOTING—212

Addabbo	Fascell	Nedzi
Albosta	Fazio	Nelson
Alexander	Ferraro	Nolan
Anderson, Calif.	Fish	Nowak
Andrews, N.C.	Flood	O'Brien
Andrews, N. Dak.	Ford, Mich.	Ottinger
Anthony	Ford, Tenn.	Panetta
Applegate	Forsythe	Pashayan
Archer	Frost	Patten
Ashbrook	Garcia	Patterson
Ashley	Giaimo	Pepper
Aspin	Gibbons	Petri
AuCoin	Gilman	Preyer
Badham	Gingrich	Pursell
Baldus	Glickman	Quayle
Beard, Tenn.	Goldwater	Quillen
Beilenson	Goodling	Rahall
Boland	Gray	Railsback
Bolling	Green	Regula
Boner	Grisham	Rhodes
Breaux	Gudger	Richmond
Brinkley	Hagedorn	Ritter
Broomfield	Hall, Tex.	Rodino
Broyhill	Hammer-schmidt	Roe
Buchanan	Hanley	Rose
Burgener	Harsha	Rosenthal
Burlison	Heckler	Rostenkowski
Burton, John	Hefner	Rousselot
Burton, Phillip	Heftel	Royer
Butler	Hillis	Rudd
Byron	Holland	Russo
Campbell	Hollenbeck	Sawyer
Carr	Holtzman	Scheuer
Cheney	Howard	Schroeder
Chisholm	Huckaby	Schulze
Clausen	Hughes	Sebelius
Clay	Hutto	Shannon
Cleveland	Jenkins	Shuster
Clinger	Johnson, Colo.	Snowe
Coleman	Kindness	Snyder
Collins, Ill.	LaFalce	Solomon
Conte	Latta	Stangeland
Conyers	Leach, La.	Stanton
Cotter	Leath, Tex.	Stark
Crane, Daniel	Lederer	Stokes
Crane, Philip	Lee	Stump
D'Amours	Lent	Symms
Daniel, Dan	Lloyd	Thompson
Danielson	Long, Md.	Traxler
Davis, Mich.	Lott	Treen
Davis, S.C.	Luken	Udall
Dellums	Lundine	Ullman
Derrick	McDade	Vander Jagt
Devine	McEwen	Vanik
Dickinson	McKay	Walker
Dicks	Madigan	Waxman
Diggs	Marks	Weiss
Dodd	Marriott	Whitley
Dornan	Martin	Whittaker
Dougherty	Matsui	Whitten
Downey	Mattox	Williams, Ohio
Early	Mavroules	Wilson, Bob
Eckhardt	Michel	Wilson, C. H.
Edwards, Ala.	Mikva	Winn
Edwards, Okla.	Minish	Wirth
Emery	Moakley	Wydler
Erlenborn	Moorhead, Pa.	Wylie
Evans, Del.	Motti	Yates
Evans, Ga.	Murphy, Ill.	Young, Alaska
Fary	Murphy, N.Y.	Young, Fla.
	Myers, Pa.	Zeferetti

□ 1450

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4034, with Mr. SEIBERLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New York (Mr. BINGHAM) will be recognized for 30 minutes, and the gentleman from California (Mr. LAGOMARSINO) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I yield myself 9 minutes.

(Mr. BINGHAM asked and was given permission to revise and extend his remarks.)

Mr. BINGHAM. Mr. Chairman, H.R. 4034 is the product of a great deal of consultation and mutual accommodation with the executive branch and among various individuals and groups within the Congress.

I want to express my appreciation for the support of the chairman of the full committee, the gentleman from Wisconsin (Mr. ZABLOCKI), and the other members of the committee, particularly the members of the subcommittee who worked very hard on this legislation. I would particularly like to express my appreciation to the ranking minority member, my friend and colleague, the gentleman from California (Mr. LAGOMARSINO), who offered many constructive amendments to this legislation and who devoted a great deal of time and attention to it. We have a better bill before the House today because of his efforts and willingness to resolve problems constructively.

The subcommittee received suggestions and useful comments from many public groups, and the subcommittee appreciates the work of each of those organizations. In particular, however, I would like to mention the helpful suggestions and support we received from the National Governors Association, which took a very active interest in this legislation. The association, I am happy to say, strongly supports this legislation, as do other groups which I will mention later.

Mr. Chairman, this bill would accomplish the first major reform of the export control system in 10 years—a reform more of procedures than of policies. It would extend the export control authority, which would otherwise expire September 30 of this year, to September 30, 1983. The bill extends, without any change whatsoever, the legislation approved by the Congress in 1977 restricting American participation in foreign boycotts against countries friendly to the United States. It also retains congressional veto over any action by the executive branch to restrict the export of agricultural commodities. It contains an even tighter restriction than existing law upon any export of Alaskan oil. Finally, in title II, it authorizes funds for the collection of foreign investment data under the Foreign Investment Survey Act.

Perhaps the most important reform in this bill is that for the first time a clear distinction or separation is made between controls on U.S. exports for national security reasons and controls for foreign policy reasons. The current statute, which evolved over the past 30 years, tended to confuse those two very different kinds of controls. This has resulted in frustrations and misunderstandings in the American business community and has tended to discredit and weaken the extire export control process.

Under this legislation, exporters will know when they are dealing with foreign policy controls and when they are facing possible controls for national security reasons. With the exception of export of nuclear items, procedures for which are contained in the Nuclear Non-Proliferation Act, controls exercised under this act will be clearly for foreign policy or for national security purposes, with greater constraints on the executive branch in restricting exports for foreign policy than for national security reasons.

The Subcommittee on International Economic Policy and Trade, which I have the honor to chair, has been studying export administration since 1976. The first result of that study was the Export Administration Amendments of 1977, passed overwhelmingly by the House. H.R. 4034 seeks to carry forward the reforms begun with the 1977 amendments. The bill is the product of 15 days of hearings, at which witnesses of all persuasions and opinions were heard, and 8 days of markup in both the subcommittee and the full Committee on Foreign Affairs. It now carries the sponsorship, I am proud to say, of 15 of the committee's 22 Democrats and 6 of the committee's 12 Republicans.

Section 104 of the bill, which runs from page 6 to page 40, is the heart of it. While appearing complex, its two purposes are simple. The first is to increase the effectiveness of exports controls by: clarifying the statutory authority of the Defense Department; requiring the development of a list of "military critical technologies" for export control purposes; strengthening the 15-nation export control coordinating system known as COCOM; improving the monitoring of technology transfers through technology cooperation agreements; and requiring accountability in the exercise of foreign policy controls.

The second is to remove obsolete controls and to increase the efficiency of the licensing procedures by: establishing procedures for multiple exports of routinely approved items with just one application; requiring greater attention to foreign availability; encouraging periodic removal of controls as goods and technology become obsolete from a national security point of view; requiring more frequent and more open list reviews; and imposing procedural requirements and time limits for processing export license applications in order to reduce the long delays which frequently occur under current practice.

□ 1500

In the world in which we live, we cannot afford to relax our controls on technology exports which our adversaries could use to reduce the military technology gap which is the key to the superior performance of U.S. weapons systems. At the same time, considering the unprecedented trade deficit which is sapping our economic strength and vitality, we cannot afford to continue controling products which are being exported by other advanced free-world countries. Nor can we afford inefficiencies and delays in the licensing system which act as needless barriers to exports. I believe H.R. 4034 makes the necessary trade-offs between these considerations. I believe it is a balanced bill.

Mr. Chairman, I will include a summary of the bill at the end of my remarks, and will not go into further detail at this time. In conclusion, let me touch on an important point at issue in this bill. Recently there have been charges that U.S. technology is flowing freely to the Soviet Union and being diverted to the Soviet military. If you listen carefully, you will not hear much evidence to back up these charges, because they are wrong. The well-known fact is that the United States has the most restrictive East-West technology transfer policies of any Western nation, with the result that the Soviets get most of their imported technology from our allies. But as the debate proceeds, I would ask you to keep the following points in mind:

First, the law is very clear: exports "which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States" are not permitted. All agencies involved seek faithfully to implement that provision. It happens to be a fact that no technology export to a Communist country has taken or can take place without the concurrence of DOD.

Second, technology—the knowledge of how to product things—exists in people's minds. There is no way you can stop its transfer forever. Other countries have it, too. The Soviets can develop their own, or get it from other sources. Just because the Soviets possess a capability does not mean we gave it to them. Beware of allegations on this floor that because the Soviets know how to do something, they must have learned it from us.

Third, we will be talking here about export controls on so-called dual-use items—that is, items which are civilian in character but, by their nature, can be used to support military activities. Beware of the proposition that because an item could conceivably be used for military purposes, it should be banned from export. Everything exported under this act probably could be put to military use for example—common tools, boots, and so forth. The whole reason we have a licensing system is to distinguish between those that can be safely exported and those that cannot.

The licensing process is run by human beings. They are required by the law to make excruciatingly difficult judgments. I am not going to stand before you and say they have never made a mistake in the 30 years that the licensing system has been in operation. But what I want to impress upon you is that the only way to avoid mistakes is to remove discretion by banning all exports. Since no other country is prepared to do this, it would solve nothing. There is no way to get around the necessity for judgment. In this situation, we have a licensing system that errs on the side of caution, as it should. But those who will suggest to you that with organizational tinkering they can remove all risk are claiming the impossible.

Mr. Chairman, the United States exports only 8 percent of its gross national product—compared with 27 percent for Germany and 14 percent for Japan. We have only 13 percent of the West's technology exports to the Soviets; last year, we had only 1 percent of the machine tool exports. We are not exporting our technology to the East; we are exporting our jobs to our competitors. We bring before you a bill which responds responsibility to this problem, fully protecting the national security while increasing U.S. competitiveness in the international marketplace.

I am proud that the bill is endorsed by the National Governors Association, the U.S. Chamber of Commerce, the National Association of Manufacturers, the Emergency Committee for American Trade, the American League for Exports and Security Assistance—chaired by our former colleague, Joe Karth—and by six major advanced technology industry associations. I am honored that the bill is supported in a recent "Dear Colleague" by the ranking member of the Appropriations Committee (Mr. CONTE), the minority whip (Mr. MICHEL), the chairman of the Congressional Campaign Committee (Mr. VANDER JAGT), the chief deputy majority whip (Mr. ROSTENKOWSKI), and the chairman of the Export Task Force (Mr. ALEXANDER), and in another "Dear Colleague" by Northeast-Midwest Coalition chaired by the gentleman from Pennsylvania (Mr. EDGAR). The bill is also consistent with the recommendations of two major GAO reports. I believe it is a good bill, and worthy of your support. I urge you to vote for the bill and against any restrictive amendments.

In closing, let me address some particular issues that have arisen. Much has been made recently of the fact that some end products of the Kama River truck factory in the Soviet Union, which includes some of our technology, are being used by the Soviet military. Those end products are common diesel engines and general purpose trucks.

What Kama River illustrates is that U.S. export control policy tolerates some military use of commonly available end products produced from U.S.-origin technology. That was our policy in 1971 when the Kama River decisions were made. It has been our policy since President Nixon implemented détente and the Congress accordingly amended the Export Administration Act in 1969. It is our policy today. This legislation (H.R. 4034) does not change that policy.

Now the Members who are making an issue of Kama River disagree with that policy. That is certainly their right and privilege. But it is unfair, however, to portray Kama River as evidence that the export licensing system does not work. The system worked perfectly well. We knew precisely what we were doing—we took into account all the risks and factors. In short, Kama River is a policy disagreement, not an indictment of the export licensing mechanism.

While it is our policy to tolerate some military use of easily available end products—such as general purpose trucks, which the Soviet Union has long produced itself or could get from any COCOM country—we, of course, do not tolerate direct military use of advanced technology. We weigh the risk of such direct military use for every export of advanced technology, and deny many where the risk is simly too great, regardless of any end-use or safeguard agreements we might be able to get from the Soviets. We do not ship anything under safeguard agreements where the consequences would be great if the safeguards were violated and diversion occurred.

About the only alternative to this kind of policy, Mr. Chairman is to go back to the total embargo we had during the cold war and up until 1969. If we did not tolerate some military use of common end products we would not sell wheat, or shoes, or even buttons to the Soviets—some of which can be, and probably are, used directly or indirectly by the Soviet military. That, in essence, is what the critics of our decision of Kama River, would like to do—go back to the total embargo of the cold war. The Congress and a Republican President abandoned that approach in 1969. I urge my colleagues not to revert to the cold war now—to reject amendments based upon allegations that our export control mechanism does not work and purporting to fix up the system by putting it in DOD or increasing the scope of the controls.

Another issue which has been the subject of much discussion lately is the so-called critical technology issue. Technology is defined as the know-how used to design and manufacture products. Since 1976, DOD has been engaged in an effort to develop a list of military critical technologies which we want to take special care to control because they are the keys to the technological superiority of U.S. weapons systems. If these critical technologies can be identified, it should be possible to decontrol a significant number of end products whose export—in the absence of the knowledge of how to make them—would not pose a national security threat. This would permit our export control personnel to focus their attention better on the more significant items. and would facilitate exports on noncritical items. H.R. 4034 encourages this outcome.

The critical technology exercise is frequently misinterpreted in popular discussion as indicating that critical technologies are not now controlled—that

they are flowing freely to the Soviets until the exercise is completed and they are brought under control. This is not the case. Critical technology is controlled and always has been. But it has been controlled on a case-by-case basis, along with non-critical technology and end products. Judgments are made on each individual application, without reference to a list of what is most critical. It is desirable for this situation to change, and H.R. 4034 encourages a change. But we should not proceed in a panic, on the assumption that critical technology will be exported until controlled.

This panic is the basis for proposals that we require in the law that the critical technologies list be published immediately and that items on the list be absolutely banned for export to communist countries. Such action would be grossly premature. We do not yet know whether it will prove possible to elaborate a list of technologies we never want to export to the Soviets, let alone what such a list would look like. The current case-by-case method must continue in operation until our knowledge advances far enough to adopt a better system. Meanwhile, we can rest assured that critical technologies are being controlled.

A final issue that has arisen concerns the role of the Department of Defense in determining what is to be controlled on national security grounds and in reaching licensing determinations on those items. Some would have us believe that an export-oriented Commerce Department is shipping our technology to the communists by the boatload over the objections of the Department of Defense. These people want to put DOD in charge of export controls, on the assumption that DOD would be more conservative than Commerce and many exports would be halted.

That assumption would be correct except for one minor detail: DOD already exercises primary influence over the national security control list, and already has a veto over exports to Communist countries. In 1974 the so-called Jackson amendment was inserted into the Export Administration Act, enabling DOD to review any license application and to recommend denial directly to the President. Since that time, DOD has never been overruled.

It is true, as a general rule, DOD takes a more conservative view of exports to the East than does the Commerce Department. Export licensing is deliberately an interagency process, so a variety of viewpoints will be brought to bear on the applications. But DOD's role—both by statute and because of the natural deference accorded it by the other agencies in national security matters—is such that whenever DOD voices a national security objection to a proposed export, that export is halted unless and until DOD is satisfied.

Mr. Chairman, DOD has testified on numerous occasions that it is fully satisfied with its current role in the export control process. I append to my statement letters from Secretary of Commencer Kreps and Under Secretary of Defense Duncan stating that they favor the current division of responsibilities between the two agencies and do not seek any changes.

Mr. Chairman, I am proud that the bill is endorsed by the National Governors' Association, the U.S. Chamber of Commerce, the National Association of Manufacturers, the Emergency Committee for American Trade, the American League for Exports and Security Assistance, chaired by our former colleague, Joe Karth, and by six major advanced technology industry associations. I am honored that the bill is supported in a recent "Dear Colleague" letter by: the ranking minority member of the Appropriations Committee, the gentleman from Massachusetts (Mr. CONTE); the minority whip, the gentleman from Illinois (Mr. MICHEL); the chairman of the Congressional Campaign Committee, the gentleman from Michigan (Mr. VANDER JAGT); the chief deputy majority whip, the gentleman from Illinois (Mr. ROSTENKOWSKI); and the chairman of the Export Task Force, the gentleman from Arkansas (Mr. ALEXANDER); and in another "Dear Colleague" letter by Northeast-Midwest Coalition, chaired by the gentleman from Pennsylvania (Mr. EDGAR). The bill is also consistent with the recommendation of two major GAO reports. I believe it is a good bill and worthy of your support. I urge you to vote for the bill against any restrictive amendments.

SUMMARY OF MAJOR PROVISIONS OF THE EXPORT ADMINISTRATION AMENDMENTS OF 1979

Section 102 revises the findings of the Export Administration Act to emphasize the importance of exports for the U.S. economy and the effect on the U.S. trading position of the availability of competing goods and technology from foreign sources, while maintaining the finding in the Act of the continuing need to restrict exports for national security and other purposes.

Section 103 restates the three basic purposes of the Act in order of their importance, and adds two new policy statements to section 3 of the Act: that it is U.S. policy to apply export controls in cooperation with U.S. allies; and that exports are a high priority and should not be controlled except when the controls are essential, will clearly achieve their objectives, are administered according to basic standards of due process, and are justified annually to Congress and the public.

Section 104 adds four new sections to the Act, numbered 4, 5, 6, and 10.

New section 4 establishes validated and general export licenses, currently in use, in the law, and establishes a new kind of export license, a "qualified general license," which would authorize multiple exports of certain goods and technology, subject to appropriate end-use controls and other conditions, without individual application for each transaction. The purpose of this provision is to provide administratively simpler licensing procedures for routinely approved exports, thereby reducing the paperwork and delays associated with validated license applications.

New section 5 consolidates the existing national security control authorities of the Act into a single section and makes several reforms in the exercise of those controls, among them the following. The Secretary of Defense is specifically authorized to identify goods and technology to be controlled for national security purposes. There is to be continuous review of the list of items controlled for national security purposes, prompt issuance of revisions to the list, and opportunity for interested parties to submit their views. The Secretary of Defense is required to develop a list of military critical technologies for use for export control purposes. The Secretary of Commerce is to limit validated license controls insofar as practicable to certain stated situations, and to employ qualified general license procedures to the maximum extent practicable. The Secretary of Commerce is required to establish a capability within the Commerce Department for the continuous review of foreign availability, and to remove validated license controls on, and approve applications for the export of, goods and technology with respect to which foreign availability has been established, unless the President determines that such action would be detrimental to the national security, in which case the Secretary must publish that determination along with a statement of its basic and estimated economic impact. The Secretary is encouraged to establish an "indexing" system providing for periodic removal of controls as goods and technology become obsolete from a national security point of view. The Secretary of Commerce is required to investigate certifications of foreign availability made by the industry-government Technical Advisory Committees established under the Act, and to remove controls where such availability is determined to exist. The President is required to enter into negotiations with a view toward improving the effectiveness of the 15-nation export control Coordinating Committee (COCOM). U.S. organizations (except educational institutions) entering into certain technical cooperation agreements with government agencies in controlled countries are required to report those agreements to the Secretary of Commerce, in order to facilitate monitoring of technology transfers which might take place under such agreements.

New section 6 consolidates the existing foreign policy control authorities of the Act into a single section and makes several reforms in the exercise of those controls, among them the following. Before imposing such controls, the President is required to consider their likely effectiveness, their compatability with U.S. foreign policy objectives and with overall U.S. policy toward the country which is the target of the controls, their likely effects on U.S. export performance and international competitiveness and on U.S. companies and their employees and communities, and the government's ability to enforce the controls effectively. Before imposing such controls, the Secretary of Commerce is required to consult with affected U.S. industries, and the President is required to determine that reasonable efforts have been made to achieve the purpose of the controls through negotiation or other means. The President is required to consult with Congress before imposing foreign policy controls and to report the imposition of any new control to Congress, and Congress can disapprove the control by Concurrent Resolution. Controls imposed pursuant to treaties or other international obligations are exempted from several of the requirements of this section.

New section 10 provides procedural requirements for processing export license applications, in order to reduce the long delays which frequently occur under current practice. Although the intent of Congress is stated that licensing determinations should be made to the maximum extent possible by the Secretary of Commerce without interagency review, it is provided that any agency may review any license application if it so requests.

An overall maximum of 180 days is provided for U.S. government review of applications, as follows. Within 30 days, the Commerce Department is to either approve

or deny an application, or refer it to other agencies for review. The other agencies are to submit their recommendations to the Commerce Department within 30 days or be deemed to have no objection to approval, unless the head of any such agency requests more time, in which case a further 30 days is provided. The Commerce Department then has 30 days to consider the agency recommendations, reach a decision, and issue or deny the license. Any agency which submitted recommendations to the Commerce Department may appeal the Department's decision to the Secretary of Commerce, in which case the Secretary has 30 days to consider the appeal, reach a decision, and issue or deny the license. Any agency which appealed to the Secretary may appeal the Secretary's decision to the President, in which case the President has 30 days to consider the appeal and reach a decision, or else the decision of the Secretary is final.

Apart from these procedures, special national security procedures, currently provided in the Act and retained in the bill, provide that the Secretary of Defense may, within 30 days, recommend denial of any application directly to the President, in which case the President has 30 days to sustain or overrule the recommendation.

After U.S. government review is completed, 60 days are provided for COCOM review if necessary; in the absence of COCOM action within the 60-day limit, the license is required to be issued. A comparable 60-day period is provided for U.S. review of export requests by other COCOM members.

With notification to Congress and the applicant, any time period prescribed by this section may be extended in order to permit negotiations on possible modification of an application to meet national security objections.

An applicant may appeal any license denial to the Secretary of Commerce. In any case where any time limit is violated, the applicant may petition the Secretary of Commerce to correct the situation and, if the processing of the application has not been brought into conformity with the requirements of this section within 30 days, may bring an action in United States district court to require compliance with such requirements. At all stages of the process, the applicant is to be kept fully informed to the status of his application. The applicant is to be accorded an opportunity to respond to objections to his application, and is to be informed of the reasons for any denial.

Section 105 provides that one of the factors on the basis of which export licenses are to be allocated in the case of export controls for short supply purposes is the extent to which a country engages in equitable trade practices with respect to United States goods and treats the United States equitably in times of short supply.

Section 106 strengthens the short supply monitoring provisions of the Act.

Section 107 strengthens the prohibitions of the Act on the export of Alaskan oil, and provides an exemption from these prohibitions in order to fulfill a bilateral international oil supply agreement entered into by the U.S. prior to May 1, 1979. The only such agreement in effect on that date was between the U.S. and Israel.

Section 108 repeals the prohibition in the Act on exports to Uganda.

Section 109 facilitates barter arrangements whereby goods in excess supply in the domestic economy are exchanged for goods in short supply.

Section 110 phases out exports of unprocessed western red cedar logs, a vanishing species, over a four-year period.

Section 111 provides that any product which is standard FAA-certified equipment in civil aircraft, and is an integral part of such aircraft, and which is to be exported to a noncommunist country, shall be subject to controls under the Export Administration Act rather than the Arms Export Control Act.

Section 112 exempts certain export controls for nuclear nonproliferation purposes from certain of the requirements of the bill. In essence, controls and procedures currently in effect are "grandfathered" in order to avoid any possible disruption of the controls.

Section 113 increases the penalties for violations of the Act.

Section 114 amends the confidentiality provisions in section 7(c) of the Act to require the Secretary, with certain exceptions, to maintain the confidentiality of information which would reveal the parties to a transaction, the type of good or technology being exported, or the destination, end use, quantity, value, or price of the good or technology.

Section 119 authorizes the appropriation of $7,070,000 for fiscal year 1980 and $7,777,000 for fiscal year 1981 to the Department of Commerce to carry out the Act.

Section 120 extends the authority granted by the Act to September 30, 1983.

Section 201 authorizes $4,400,000 for fiscal year 1980, and $4,500,000 for fiscal year 1981, to carry out the International Survey Act.

Other sections are more or less technical in nature.

THE SECRETARY OF COMMERCE,
Washington, D.C., July 23, 1979.

Hon. JONATHAN B. BINGHAM,
Chairman, Subcommittee on International Economic Policy and Trade, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: When H.R. 4034 is considered on the House floor, it is anticipated that a number of amendments may be offered. I am authorized to say that the Administration is opposed to any amendment which would alter the existing array of responsibilities within the Executive Branch with respect to the administration of export controls, and we prefer that there be no additional restrictions on export controls.

Sincerely,

JUANITA M. KREPS,
Secretary of Commerce.

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., July 20, 1979.

Sen. ADLAI E. STEVENSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: In response to your letter of July 19, 1979, the Department of Defense supports the administration's position on the amendments which are expected to be offered to S. 737, the Export Administration Act of 1979.

Most of these proposals do not impact directly on the Department of Defense. Two, however, do and we are opposed to both of them. One would tend to reverse the relative roles of the Secretary of Defense and Secretary of Commerce in reviewing and revising export controls maintained for national security purposes. While the intent appears to be to insure that the Department of Defense has an adequate role in the export control system, it is our judgment that the Secretary of Defense already has and exercises adequate authority in this area.

The other amendment would authorize inclusion in the Defense budget of funds especially appropriated for export control functions. Our opposition to this proposal is that such an authorization is not currently needed

By means of a separate letter, I plan to answer the other questions you raised about the adequacy of U.S. export controls maintained for national security purposes. In the meantime, I thought it might be helpful to let you know at once where we stand on the amendments issue.

Sincerely,

C. W. DUNCAN, Jr.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., July 20, 1979.

Hon. ADLAI E. STEVENSON III,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: We have reviewed your 19 July 1979 letter in which you requested Department of Defense views on several amendments which are expected to be offered to S. 37. Our views on the questions raised in your numbered paragraphs are as follows:

1. The Kama River Truck Plant licenses for the foundry and production machinery were issued during the Nixon Administration and contained no restrictions so far as we know limiting the use of the trucks and engines produced in the factory. Accordingly, use by the Soviet military of the trucks produced at Kama or inclusion of the engines in military vehicles would not constitute a violation of U.S. export control restrictions. Whether and if so to what extent Kama River engines are being used in Soviet military vehicles has not been verified. Accordingly, there is no basis on which a judgment can be made about the contribution such use might make to the Soviet military potential.

2. A number of technologies employed in the Cruise Missile System can be exported to most non-Communist countries without a validated export license. None of them, however, are either sensitive or "critical" because they are not unique to cruise missile design, development or production and are readily available in a number of countries in the West. Those few technologies which are both unique to cruise missiles and available only in the U.S. require validated licenses from either the Departments of State or Commerce. An example is the technology associated with the small jet engine which is currently under development for the cruise missile. This technology can only be exported under a Munitions license.

3. The existing allocation of responsibility under the Export Administration Act for export controls does not hinder the Department of Defense's efforts to formulate a list of critical military technologies or otherwise interfere with the implementation of an effective and fully adequate system of export controls for national security purposes. In particular, the Department of Defense would oppose any amendment which tend to reverse the relative roles of the Secretary of Defense and the Secretary of Commerce in reviewing and revising export controls maintained for national security purposes. It is our judgment that the Secretary of Defense already has and exercises adequate authority in this area.

4. Statutory authority is already available to embargo exports of "critical" goods and technologies to all controlled country destinations. We would oppose any amendment which would make this a mandatory requirement because, on the one hand, the items to be covered are not presently fully determined, and, on the other hand, there may be occasions, even though rare, on which such action would be ill-advised.

With regard to end use statements and safeguard provisions, we do not regard them as applicable to transactions in which technology, either in the form of technical data or equipment from which technology may be extracted, is involved. It is our judgment that technology once transferred can be neither controlled or recalled. We consider the usefulness of safeguards as limited to

hardware items whose diversion to other than their stated purpose we wish to deter. We do not count end use statements as a safeguard.

As for computers, there are some applications for which we have been unable to devise technically and economically feasible safeguards. These are automatically recommended for denial. For others, experienced USG technical and intelligence experts have determined that safeguard provisions, judiciously applied, provide a reasonable assurance of detecting and thus deterring significant diversion of the system from its stated end use.

6. The Department of Defense has no evidence that Moscow has used American seismic equipment to enhance its anti-submarine warfare potential or that American machine tools for producing precision ball-bearings have probably helped Soviet engineers to develop multiple warheads for new intercontinental missiles.

I trust this is the information you desire.

Sincerely,

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THE SECRETARY OF COMMERCE,
Washington, D.C., June 18, 1979.

Hon. JONATHAN B. BINGHAM,
Chairman, Subcommittee on International Economic Policy and Trade, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In the course of testimony before the Subcommittee on Research and Development of the House Committee on Armed Services, the Deputy Director of the Office of Export Administration, Lawrence J. Brady, testified that trucks produced at the Kama River truck factory in the Soviet Union were being "diverted" to military use in violation of U.S. export control restrictions.

That testimony has led to newspaper stories implying that Soviet military capability has been helped as a result of an apparent lack of vigilance by this Department. This is in error.

As you know, our nation no longer enjoys a favorable balance of trade, and thus the promotion of exports is more important than ever before. Even so, the national security is paramount, and we must be careful that we do not export materials and technology that would advance at our own expense the military capabilities of other nations. To walk this line is a difficult and delicate job. That is why it is essential that issues which may arise be discussed on the basis of accurate information.

First, there was no "diversion" in connection with the Kama River truck factory and, therefore, no violation of U.S. export controls.

A diversion occurs only when end-use restrictions pertaining to a license are violated. The Kama River truck plant licenses were issued during the Nixon Administration and contained no restrictions which we can identify limiting the use of the trucks and engines produced at the factory. Accordingly, military use of the trucks or engines produced at Kama River would not constitute a diversion or violation of the law because the licenses contained no restrictions pertaining to the use of those trucks or engines. Nor would any military use of Kama River trucks or engines entail diversion of the foundry's computer, because limitations on the use of the computer pertained to use of its computing capacity, not to use of products manufactured at the foundry. Several of the licenses contain technical conditions which have nothing to do with limitations on the use of the factory output.

This view is confirmed by the attached memorandum from Mr. Brady which concludes that a thorough review, which was requested by Senior Deputy Assistant Secretary Stanley J. Marcuss, has failed to disclose the existence of any document which could be construed as a limitation on the use of the factory output for civilian as contrasted with military purposes. Two exceptions mentioned in the memorandum are not relevant to the Kama River plant.

Second, at the time the licenses were issued, the Nixon Administration knew of the possibility that Kama trucks or engines could be used by the Soviet military. This factor apparently was fully considered before the decision was made. Thus it cannot be said that this matter was overlooked or that the export control system failed to ensure that all relevant factors were considered.

Finally, contrary to some press reports, Mr. Brady has not been "demoted" nor has any action been taken against him. He retains his position as Deputy Director of the Office of Export Administration, a position he has held for the last five years. Because of his position as Deputy Director, Mr. Brady served as Acting Director of the Office of Export Administration in the period between the retirement of the previous director and the appointment of the new one.

I hope this will lay to rest the misinformation which has recently surrounded this subject.

Sincerely,

JUANITA M. KREPS,
Secretary of Commerce.

Enclosure.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., June 22, 1979.

Memorandum for Robin B. Schwartzman, Deputy Director, Bureau of Trade Regulation.

From: Lawrence J. Brady, Deputy Director, Office of Export Administration.

Subject: Kama River Case File.

On June 22, 1979, pursuant to your request, I thoroughly reviewed the relevant export license applications and supporting documents submitted by various U.S. firms seeking Department of Commerce authorization to export commodities to the USSR's Kama River Project". The results of this examination, with *two exceptions*, failed to disclose the existence of any document which could be construed to represent an agreement between parties or assurances as to the specific application of products, i.e., military vs. civilian, in the truck manufacturing process.

The exceptions are found in license applications case numbers 813124 and 849801. Case number 849801 contains a "letter of protocol" between Mack Trucks, Inc., and a Soviet trade delegation indicating that the trucks assembled at Kama River would be used for agricultural and industrial purposes.

A copy of the protocol is attached.

With regard to the protocol, I am concerned that because Mack Truck pulled out of the deal after signing the protocol, which you will note also included other parties, including SATRA, it may not be considered relevant to subsequent licensing actions. I intend to go through all of the license applications to see whether or not we referenced the protocol in subsequent license actions. I think we did. I am also sending you separately a copy of the entire "front office" file on KAMA.

Also attached is a June 14 memorandum Dick Isadore prepared on the basis of a quick review of all license applications for the KAMA River plant.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., June 14, 1979.

Memorandum for Lawrence Brady.

Subject: Kama River Truck Plant Licenses.

At your request all case files which could be identified as part of the Kama River Truck complex have been retrieved from Archives.

Staff members reviewed each case file, examining all documents including actual applications, supporting documents, Single Transaction Statements, internal memoranda and chron sheets for any indication which would show:

1. Limittaion on the truck usage for civilian versus military applications.
2. Conditions attached to individual licenses.
3. Letters of conditions attached to licenses.

Over 175 case files were reviewed and there was no indication of limitation of use for the trucks to be produced at Kama River. The computer equipment licenses issued to IBM have the visitation conditions which are a part of all major computer sales to Bloc countries.

At the time these licenses were issued, they were microfilmed and sent to Archives. The procedure did not include microfilming letters or supporting documents accompanying licenses as is done now in our microfiching process. We are retrieving these microfilm files and will review the face of all licenses issued to insure that conditions were not typed on the license itself.

All cases and the Capital Goods & Production Materials Kama River file have been given to Paige Bryan.

RICHARD ISADORE.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentleman from New York (Mr. BINGHAM) and also the ranking minority member, the gentleman from California (Mr. LAGOMARSINO). I think there is no question that this subcommittee has, since it has had jurisdiction of this particular subject matter, been very diligent and worked very hard on this subject matter.

I happen to have been one of those who helped to reorganize the rules of the House so that the gentleman's subcommittee would get it rather than the subcommittee that used to have it.

I happen to have very strong opinions, mostly against export controls; but I recognize that in certain circumstances there must be some kind of limitations, especially as to certain strategic materials. But I especially want to thank the gentleman and the ranking minority member for looking favorably at a provision in here with regard to bartering.

Under existing law, it is not possible to enter into a long-term barter agreement with another country because it would be subject to an export control mechanism, and under this provision it is permitted if it can be done to barter. I think we have to recognize that we have to do some of the things that Japan, West Germany, and some of the other countries do with regard to bartering.

I appreciate the gentleman putting this into the bill.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman from Iowa (Mr. SMITH) for his comments and for his role in giving our committee jurisdiction of this subject matter. I also want to thank him for his suggestion of this amendment, which I think was a constructive addition to the bill.

Mr. LAGOMARSINO. Mr. Chairman, I yield myself such time as I may consume.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman,

I rise in support of H.R. 4034, I also wish to call attention to several minor concerns I have with the bill which I hope can be worked out during floor consideration of this measure.

First I want to commend Congressman BINGHAM, Chairman of the Subcommittee on International Economic Policy and Trade, and his staff and the other members of the committee for holding long, extensive, and very comprehensive hearings, and also for being very patient throughout the markup process in subcommittee, when I offered some 25 amendments. Some of the amendments were accepted then and others were accepted later in full committee. We may even see again here in the House a few of those not accepted earlier. I want to also commend the minority staff, Jake Dunman for his outstanding work on this measure.

I share the chairman's concern about trying to enact legislation that will provide a proper balance between the interests of business and the interests of national security. The business sector needs to know what it must deal with in getting an export license and in having some way of knowing when a license will be acted upon. On the other hand, we have to balance that against the proper role of national security and the need to prevent technological information from falling into the hands of our adversaries that could be harmful to our national interest.

These days in the Foreign Affairs Committee we hear a lot about signals. Somebody talks about sending a signal to someone. I have been concerned that if we are not very careful about how we finally draft this bill, we might send a signal, to whomever, is receiving it, that would indicate that perhaps we are not as interested in preventing substantial and important technological information from falling into the hands of our adversaries as we should be. This could not only help those adversaries by the resulting situation here but also by giving to our allies the impression that we are not as concerned about what they permit to be exported.

There was an article recently in the Washington Post by George Will—I would like to read a little to you. I do not subscribe to everything he says, but I think some of the points he makes are worth considering.

He says:

Trade, especially the transfer of U.S. technology, is vital to the Soviet economy, which must support a ravenous military machine. The Soviet workforce is larger than that of the United States, but produces about half the GNP. It would be even less productive without technology supplied by capitalist countries.

As Carl Gershman writes in commentary, it is hard to find any important Soviet industrial process that has not benefited significantly from western technology. Soviet gains from such transfers are immediate and economic—which, in a garrison state, means military, too. U.S. gains are hypothetical.

A U.S. computer firm admits that the Soviets gained 15 years in research by spending just $3 million. The Soviets bought for just $150,000 space suits that American taxpayers spend $20 million apiece to develop.

After a Soviet "trade" delegation, ostensibly considering purchases, toured Boeing, Lockheed and McDonnell Douglas plants, a member of the delegation admitted privately that no purchase had ever been contemplated. The aim was industrial espionage. Some members' shoes had heels and soles made of a substance that picked up metal filings which could be returned to Moscow for metallurgical analysis to reveal the alloys used in U.S. aircraft.

I think that just having the hearings we did—especially the way the hearings were held over a substantial period of time—allowed everyone plenty of time to know what other witnesses were saying and to respond. That has been helpful in and of itself.

I think all of the executive agencies that were involved with this process—Departments of Commerce and Defense particularly—are much more aware now of the interests of members of our committee and of Congress as a whole and are going to be more responsive. I think our interest is shown by those hearings and it will be shown by the work that we finally produce here on the floor.

Of the changes I would like to see in H.R. 4034, there are three of primary concern to me: First, the provision eliminating U.S. re-export licensing requirements; second, mandatory suspense dates for export license applications within the administration review; and third, mandatory dates for Cocom review.

I would like to say that with regard to the foreign policy provisions in the bill, I find very little to criticize. I think the bill makes a substantial improvement in the existing law in that area and will really get rid of some of the uncertainty in the business community. Specifically, the provision for congressional review of Presidential decisions will provide a role for Congress in this important subject.

In the area of national security controls, I would like to summarize the emphasis we have given to this issue in H.R. 4034.

The "findings" and "policy" sections clarify the necessity of export controls for national security purposes.

Included in the section on national security controls is the provision for the Secretary of Defense and other appropriate agencies to identify goods and technology to be included on the commodity control list. The Secretaries of Commerce and Defense must concur on items to be included on the list, and in case of a dispute between the two, the matter shall be referred to the President for resolution.

This section of the bill also provides for the Secretary of Defense to develop a list of military critical technologies and finds that the national interest requires that export controls for national security purposes be focused primarily on military critical technologies. In developing such a list, the Secretary of Defense is to give primary attention to the elements DOD cites as essential to preserving the U.S. technological lead. The technologies are to be controlled when they are not possessed by countries to which exports are controlled and which, if exported, would permit a major advance in a weapons system of any such country. The list of military critical technologies developed by the Secretary of Defense is to become part of the commodity control list according to the procedures set forth in the bill. This is an essential provision.

The provisions of the bill for a validated license and a new category—the qualfied general license—were revised to make more explicit that national security concerns must be considered in requiring such licenses.

As a result of my amendment in subcommittee, the bill now provides for the President to require a validated license, even in the case of foreign availability, if he determines that the absence of such controls would be detrimental to the national security of the United States. Another provision was added in full committee requiring the President to publish the reason and the estimated economic impact of such a decision.

The role of technical advisory committees is made more explicit with respect to their functions in assisting the Secretary of Defense in decisions related to national security controls.

The section on national security controls also provides for the Secretary of State, in consultation with the Secretaries of Defense and Commerce, to be responsible for conducting negotiations with other countries to seek their cooperation in restricting the export of goods and technology for national security purposes.

Another amendment, which I sponsored in subcommittee, was accepted in the bill providing for special procedures for the Secretary of Defense. By this section, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes. Whenever he determines that the export of such goods or technology will make a significant contribution to the military potential of any such country, which would prove detrimental to the national security of the United States, the Secretary of Defense is authorized to recommend to the President that such export be disapproved. If the President confirms that recommendation, no license may be issued for the export of such goods or technology.

The bill also meets a major concern of industry through an amendment I offered by providing for confidentiality of information required to be furnished under this act. It also provides for access by Congress to any information required at any time under this or any previous act pertaining to export controls. Thus our right to know and ability to perform the required oversight is preserved while essential confidentiality is retained.

I would also like to call to the attention of my colleagues the pressing need for increased gasoline supplies for California and the west coast. I raised the issue of the shortage in domestic refinery capacity on the west coast in the Foreign Affairs Committee. My concern was noted in the committee report, which indicates consideration should be given to exports of petrochemical feedstocks, including

naphtha, if such export would facilitate the construction of new refineries designed to produce unleaded gasoline or other light fuels. Such a policy would promote increased domestic production and supply at a time when we are facing a critical shortage. Such consideration could help to provide for the construction of a new refinery in Alaska.

While there is still room for improvement on some of the issues in H.R. 4034, as I mentioned earlier, I believe the national security principles of export controls have been essentially preserved. I also believe the proposed legislation meets the concerns of business in clarifying licensing procedures and providing better access to the decisionmaking process.

I want to state for the record that, for many reasons, I support the provisions in the bill concerning export of Alaskan oil—the McKinney and Wolpe amendments.

With those changes I have suggested, I urge my colleagues to support H.R. 4034.

□ 1510

Mr. BINGHAM. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. WOLPE).

(Mr. WOLPE asked and was given permission to revise and extend his remarks.)

Mr. WOLPE. Mr. Chairman, over 2 years ago, under the leadership of my distinguished colleague from Connecticut, Mr. MCKINNEY, the Congress adopted an amendment to the Export Administration Act to significantly strengthen the broad, easily circumvented, oil export limitation in the TAPS Act. When the amendment was adopted, Congress thought a 2-year restriction on exports would be sufficient time to encourage the investments necessary to insure that Alaskan oil would be marketed exclusively within the United States. Unfortunately, none of the anticipated investments, such as the Sohio pipeline, have been made, and the export of Alaskan oil overseas continues to be contemplated by the oil companies and the administration.

The bill before us today provides for the necessary extension and strengthening of the current restrictions on the export of Alaskan oil. It extends the restrictions through 1983, at which time, the Export Administration Act expires. The limitations placed on the export of Alaskan oil, as adopted by an overwhelming majority of the members of the House Foreign Affairs Committee, will guarantee that no Alaskan oil leaves this country unless it can be demonstrated, beyond a doubt, to both Houses of Congress, that such exports will directly benefit the American consumer and that such action is clearly in the national interest. I would like to note that nothing within the language of this provision flatly prohibits the export of Alaskan North Slope crude oil. The bill simply states that the only acceptable criteria for Alaskan oil exports are a showing of direct consumer benefit and a showing that such exports would not adversely affect America's oil supply.

The provision before us requires the President to make certain findings before any exports may occur. It must be determined that—

Exports will not diminish the quality and quantity of oil in the United States;

That exports will result in lower acquisition costs to refiners;

That these lower costs will be passed on to the consumer; and

That contracts for exports can be terminated by the United States if our oil supplies are terminated.

The bill permits, as a single exception, the use of Alaskan oil to meet bilateral oil supply agreements entered into by the United States prior to May 1, 1979. The only such agreement in effect on that date was the agreement between the United States and Israel originally secured on September 1, 1975 and extended on March 26, 1979. This bill does nothing to restrict other domestic sources of oil from being used to fulfill our oil supply commitment to Israel.

Finally, this bill requires that any Presidential proposal to export Alaskan oil be approved by both Houses of Congress, a reasonable review process given the importance of this question.

The key issue we are presented with today is whether or not we are serious about reducing American dependence on foreign oil and fulfilling the original intent of the Trans-Alaskan Pipeline Authorization Act to deliver Alaskan oil to domestic markets. If we are serious about this, I would argue that we should be doing everything in our power to realize within the United States the full potential of domestic oil production. This means developing a new pipeline and increasing our refining capacity to handle the North Slope oil. But to permit the export of Alaskan oil to proceed without restriction would only reduce the incentive to get the essential pipeline and refining capacity in place and would extend our dependence on insecure foreign oil supplies.

When Alaska North Slope oil was discovered 10 years ago, it was correctly viewed as a major step toward American energy independence. In the wage of the Arab oil embargo of 1973, Congress enacted legislation authorizing the construction of the $10 billion trans-Alaskan pipeline so that Alaskan oil could be transported to domestic markets. Financed by American tax dollars, it was the American people who were promised exclusive use of Alaskan oil. And it was the American oil companies that provided clear assurances that Alaskan North Slope oil would be marketed in the United States, and that denied any intention of exporting Alaskan oil. Now, the administration requests the authority to approve the exports of Alaskan oil as it sees fit, possibly as a part of a three way swap or exchange involving Mexico and Japan. I maintain, that if Alaska North Slope oil is exported, it will be the oil companies that stand to gain and the American people, our economy, and our national security that stand to suffer. We must ask ourselves today to decide whether the energy policy of this country is going to be based on what is in the national interest or whether it will be based on what is most profitable for a powerful vested interest.

It should be said that there is no question but that the oil companies would realize substantial savings and increased profits if Alaskan oil were sent to Japan—approximately $2 per barrel would be saved in transportation costs. But the American consumer would not receive 1 penny of the reduction in oil company costs. This is because the price of Alaskan oil is already decontrolled; Alaskan oil sells for whatever price the market will bear, regardless of how much—or little—it costs to get that oil to its destination.

Indeed, the proponents of Alaskan oil exports have readily acknowledged that it will be the oil companies, and not the consumers, who will be the beneficiaries of reduced transportation costs. Their argument—echoed—by the administration—has been that the oil producers require higher profit margins as an incentive to realize the full production potential in the Alaskan North Slope.

So, let us look for a moment, at the question of profits and incentives. Comparing the first quarter of 1979 with the first quarter of 1978, SOHIO, the North Slope's largest producer, enjoyed an incredible 302 percent profit increase. Profits for the second quarter will be at least 70 percent above first quarter profits. According to a recent article which appeared in Petroleum Intelligence Weekly, every barrel of Alaska crude sold on the west coast brings the oil company producers $4.11 profit after taxes. That is 85 percent more than the oil companies were making on Alaskan oil last December. At some point, I submit, we must begin to ask ourselves, "When is enough, enough?"

Contrary to claims made by the administration, the current restrictions on Alaska oil exports have not held down production. Directly contradicting these claims is the recent announcement made by the Alaska North Slope oil producers of their plans to increase production by 25 percent, to 1.5 million barrels a day by the end of next year. It does not seem, therefore, that the existing limitations on the export of Alaskan oil have been much of a disincentive to increased production. The plain fact is that we can expect increased production in Alaska because Alaskan North Slope oil is enormously profitable, and has been made all the more so by the recent OPEC increases.

Much of the debate, in recent months, has been focused on the notion of a "glut" of crude oil on the west coast. Despite all the publicity about a "glut" of oil on the west coast due to Alaskan oil, all Alaskan North Slope production is currently being utilized by U.S. refineries. Even SOHIO has recently conceded this point, making statements to the effect that the need for their proposed pipeline extending from California to Texas has diminished because the west coast surplus is proving less than expected. (New York Times, May 23, 1979). In fact, every one of the 1.2 million barrels of Alaska crude sent through the Trans-Alaska pipeline each day is handled by U.S. refineries without delay.

West coast refineries take 850,000 to 900,000 barrels of that total; 75,000 is shipped by foreign-flag tanker to the Hess refinery in the U.S. Virgin Islands; and about 225,000 barrels a day is sent by U.S.-flag tankers to ports on the gulf and east coasts, as well as Puerto Rico and the U.S. Virgin Islands. Moreover, over the last few months, west coast refineries have increased their "take" of Alaska oil from 600,000 barrels a day to almost 900,000 barrels a day. Without adding new refinery capacity or retrofitting existing refineries in any way, west coast refineries can handle from 1 to 1.3 million barrels of Alaska crude per day.

Mr. Chairman, I am convinced that exporting Alaskan oil is the worst possible step we could take right now if we are serious about achieving the goal of energy self-sufficiency. As long as the major oil producers are able to extract much higher profits by the sale of Alaskan oil to Japan, they simply will not have the incentive to develop the refining and pipeline capacity that this Nation so desperately needs and that was the initial promise held out at the time of the approval of the Trans-Alaskan Pipeline Act. Attempts to establish a national energy transportation system will suffer a serious setback if Alaska oil is exported exchanged.

Permitting Alaskan oil exports is precisely the wrong signal to be sending the American people. At a time when we are asking our people to recognize our serious energy problems, at a time when we are asking the American people to dig deeper into their pockets and pay more for energy, and at a time that we are faced with short gas supplies and the prospect of shortages in home heating oil this winter, the spectre of ships transporting American oil to any foreign nation is unthinkable—especially when the only real beneficiaries of such oil exports will be the oil companies themselves. The bill before us today gives us the opportunity to cast a vote which will move us closer to our Nation's stated goal of energy independence. I urge your support of this legislation designed to insure that American oil be reserved for American use.

Mr. Chairman, the provisions in this legisltion extending and strengthening the restrictions on the export of Alaskan oil are strongly supported by a broad range of organizations that represent a cross section of America. These include consumer, environmental, labor and industry groups. At this time, Mr. Chairman, I would like to insert in the RECORD various statements of support for the language contained in the committee bill from some of these organizations.

The statements follow:

CONSUMER FEDERATION OF AMERICA—POLICY STATEMENT ON ENERGY AND NATURAL RESOURCES

Foreign dependence

"The United States' gross dependence on OPEC oil forces consumers to pay artificially high prices for energy, fuels inflation and the decline of the dollar by contributing to a massive, persistent trade deficit, and leaves the nation vulnerable to supply disruptions instigated by the OPEC nations for political or economic purposes. Yet national energy policy has neither been as forceful nor as expeditious as possible in reducing this dependence; indeed many policies reinforce our dependence. United States policy should be directed toward increasing domestic supplies of energy for domestic use. The national energy transportation system should be improved to make possible a more efficient and equitable distribution of domestic fuel supplies. The Consumer Federation of America opposes the export or swap of Alaskan oil unless it can be shown that such an export or swap would be in the consumers' interest and would not jeopardize national security. In addition to the creation and development of national alternatives to foreign oil, the following immediate initiatives should be taken:

A. Creation of a Federal oil importing agency which would purchase the nation's import needs by securing sealed bids from all oil producing nations . . .

C. Encouragement of greater productions of oil from non-OPEC oil producing nations . . .

STATEMENT BY THE AFL-CIO EXECUTIVE COUNCIL ON ALASKAN OIL EXPORTS

BAL HARBOR, FLA.,
February 22, 1979.

Administrative consideration of the possible export of Alaskan oil raises the gravest dangers for the nation's economic and defense security. The export of this oil would be a consumer rip-off engineered by the nation's oil companies to obtain greater profits. The American consumer would gain nothing and would suffer the loss of some of America's secure oil supply.

At a time when the nation faces oil cutbacks at U.S. refineries, declining imports from Iran, and the prospect of gasoline rationing, exports of U.S. oil supplies would be a national energy policy disaster.

The Administration is considering sending Alaskan oil to Japan in exchange for oil from foreign countries, including Mexico. The nation's oil companies, viewing the world from the selfish position of multinational corporations, want such nation-to-nation swaps. Such swaps would obtain no additional oil supplies for the U.S.

Swapping U.S. oil for foreign oil makes no sense—in terms of economics or national security. It is nothing more than a gimmick devised by the oil companies to circumvent U.S. law and boost their profits.

In 1973 and again in 1977 the Congress placed explicit limits on Alaskan oil exports as a result of national concern over energy shortages. The McKinney Amendment to the Export Administration Act provides for a congressional veto of any Alaskan oil export plans.

Oil exports from Alaska or other U.S. sources would leave the U.S. more dependent on the OPEC cartel or on unstable developing countries.

Oil exports do not aid the nation's trade balance, as exports would be nullified by equivalent oil imports.

The consumer would gain no benefit, being forced to pay the international price for oil wherever it may come from. The U.S. economy would suffer the loss of tanker employment, shoreside and shipyard jobs, and the tax and wage benefits they produce.

The AFL-CIO has consistently opposed Alaskan oil exports. We now believe the existing legislation restricting Alaskan oil exports should be extended and strengthened to prevent yet another oil company rip-off of the American people.

It is perfectly feasible to transport this oil directly from Alaska to the East and Gulf Coast ports by tanker or rail. Furthermore, the construction of a Northern Tier pipeline would serve the national interest. Using the U.S. transportation system would protect this vital oil supply from cartels and unstable foreign markets.

CONSUMER ENERGY COUNCIL OF AMERICA,
Washington, D.C.

Re: H.R. 3301, Amendment to the Export Administration Act to restrict exports of Alaskan oil.

DEAR REPRESENTATIVE: The Consumer Energy Council of America, a broad-based coalition of consumer, labor, farm, public power, rural electric cooperative, urban, and senior citizen organizations, urges you to support H.R. 3301, the bill to extend and strengthen the McKinney amendment to the Export Administration Act, which restricts exports of Alaskan North Slope oil.

The Consumer Energy Council supports H.R. 3301 because of the detrimental consequences—to consumers and the nation—of exporting Alaskan oil. Among these are the following:

Exporting or swapping Alaskan oil would increase our dependence on foreign oil by removing incentives to do the work needed to enable us to use all of potential Alaskan production within the U.S.: retrofitting existing refineries to accommodate Alaskan crude, building new refineries, and adding to our internal oil transportation network. If we allow Alaskan oil to be exported and our foreign supplies of oil are later cut off, we would not be in a position to divert Alaskan oil to our own use because the infrastructure necessary to using that oil would not be in place.

Exports of Alaskan oil will hurt our balance of payments, because the U.S. will receive less from sales of Alaskan oil to foreign customers than will be needed to import a comparable amount of oil into the lower 48 states.

Exporting Alaskan oil will reduce plentiful supplies that last year resulted in discounts of up to 75¢ per barrel on Alaskan crude, a clear benefit to American consumers.

Exporting Alaskan oil will be a powerful negative symbol in the eyes of the public, making the government appear disingenuous when it calls for conservation so that imports of oil can be reduced, while simultaneously exporting oil from Alaska. Support for voluntary conservation efforts will diminish and—since exports benefit only the companies producing the oil—the popular suspicions that U.S. energy policy consistently favors the oil companies will increase.

If exporting Alaskan oil is clearly in the national interest or if it would demonstrably reduce petroleum product prices for consumers, H.R. 3301 would allow such exports. At present, however, such exports are in the interests of neither the nation or consumers. We therefore ask your support of H.R. 3301 which will prevent these exports unless appropriate findings of its benefits can be made.

Sincerely,

ELLEN BERMAN,
Executive Director.

ENVIRONMENTAL POLICY CENTER,
Washington, D.C.

To: Members of Congress.

From: Hope Robertson, Environmental Policy Center; Brock Evans, Sierra Club; Rafe Pomerance, Friends of the Earth.

Re: Export Administration Act—Exporting Alaskan Crude Oil.

The Export Administration Act will be coming before Congress for reauthorization in the near future. One of the most important provisions of this act deals with exports of Alaskan oil, a provision we strongly urge you to support. This provision requires the President to demonstrate to Congress that exporting Alaskan oil will not have a detrimental effect on important factors such as the cost of oil to the consumer, or the availability and quality of petroleum for domes-

tic refineries. It is not a prohibition on Alaskan oil exports. This amendment will insure that the Congress, as well as the Administration, plays a major role in deciding whether or not Alaskan oil should be exported. Unless Congress renews the language, Congressional involvement in the development of an export policy for Alaskan oil, will end when the provision expires in June of this year.

Background

When the Trans-Alaskan Pipeline System (TAPS) was approved by Congress in late 1973, the environmental community and others accurately predicted that the west coast would not be able to handle all of the Alaskan production without major changes in the refineries. We advocated the construction of a Trans-Canadian route which would have delivered the oil to the Northern Tier states and mid-west, sections of the country now in need of petroleum. However, the oil companies assured Congress and the nation that the TAPS route was the best one and that handling Alaskan production on the west coast would be no problem.

Fortunately, some members of Congress were farsighted enough to suspect that a major motive behind the oil companies' preference for the "All-American" TAPS route was not to get better access to American markets but rather better access to Japanese markets. To insure that the oil industry kept their promise about producing Alaskan crude for the benefit of domestic markets, an amendment was added to the Export Administration Act more than two years ago, which allowed exports of Alaskan oil if such a policy would not have a detrimental impact on other facets of our domestic petroleum picture. When the amendment was adopted in 1977, Congress thought a two year restriction on exports would be sufficient time to encourage the investments needed to handle Alaskan oil on the west coast. Once these investments were made, it was felt that there would be major financial incentives to market Alaskan crude domestically.

Unfortunately, none of the necessary investments, such as retrofitting refineries, have been made. The combination of relatively low production levels during the first two years of the pipeline's operation and the knowledge that the language in the Export Administration Act would expire in June 1979, raises some doubt as to whether the North Slope producers had any intention of making the large capital commitments in domestic refineries or pipelines during this two year period. The interest of the oil industry in making investments domestically is particularly suspicious considering that the prospects of exporting Alaskan oil promised to be far more lucrative with relatively little additional investments required.

Current status of Alaskan production and use

Despite all of the publicity about a so-called "glut" of oil on the west coast, all Alaskan production (1.2 million barrels/day) is currently being utilized in west coast and Gulf refineries. There is speculation that this surplus publicity was intended to put pressure on the Administration and Congress to approve exports of Alaskan oil. But the industry's complaints about the west coast oil surplus seem to have backfired on them recently. When Sohio announced they were thinking of cancelling their pipeline project from California to Texas, there was an uproar in the Administration and Congress to save the project. Reducing the west coast surplus was viewed as a major reason to construct the Sohio pipeline by the Administration and Congress to the point where they have taken steps to insure that Sohio can build the pipeline.

This unexpected reaction to Sohio's announcement to cancel the project seems to have placed Sohio in an awkward position. They are no longer saying that the west coast is swimming in oil and instead, are making statements that the need for the pipeline was diminishing because the west coast surplus was proving less than expected. (N.Y. Times 5/23) This places the North Slope producers in delicate position as it is hard to lobby for approval of Alaskan oil exports in order to alleviate the west coast surplus when simultaneously the companies are saying the surplus is not bad enough to justify construction of a pipeline to transport the oil off the west coast. Obviously, the real status of a "glut" of oil on the west coast needs to be determined before we approve exports of Alaskan oil to alleviate a potentially non-existent problem.

Language is still needed to control Alaskan oil exports

The language in the Export Administration Act will insure that any decision made by the Administration to export Alaskan oil must be reviewed and accepted by Congress. In light of the enormous implications exporting Alaskan oil will have on many facets of our petroleum supply picture, Congressional involvement is vital.

For example, Congress must advocate policies which will encourage retrofitting of refineries on the west coast and elsewhere in the nation, so that they can handle heavier crudes, such as Alaskan. The availability of large quantities of Alaskan oil, coupled with changes in U.S. refinery policies cannot help but be an incentive to retrofit these refineries. Any exports of Alaskan oil must not discourage these important changes in our domestic refining capabilities.

Another area affected by Alaskan oil exports, is pipeline construction. The cost and environmental risks of tankers make the use of some pipeline network from the west coast inland, important to consider. If it turns out that construction of pipelines is economically efficient and environmentally preferable, exporting Alaskan oil may undermine the viability of the projects unless the exports are carefully controlled.

These issues and many others need careful analysis before a decision regarding exports of Alaskan oil is made. To insure that the Administration develops a policy which will maximize the benefits to the public and our long term petroleum supply picture, we urge you to vote for the renewal of language controlling Alaskan exports.

□ 1520

Mr. LAGOMARSINO. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI).

(Mr. DERWINSKI asked and was given permission to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Chairman, my understanding is that the administration, despite its public statements in support of authority to barter or sell Alaskan oil to Japan, does not intend to fight on the issue.

Therefore, I wish to reemphasize my views for the record. The McKinney-Wolpe amendment absolutely prohibits the sale or barter of Alaskan oil to Japan. I believe that the executive branch should have flexibility to be able to swap that Alaskan oil, which we are unable to refine on our west coast, for oil from other areas to be delivered to our east coast refineries. If such a swap should become advantageous because it is cheaper, the executive branch should have the authority to carry out the swap—in our national interests. I believe that our real security interests should include that option.

We have a $12 billion annual trade deficit with Japan. With this option to swap Alaskan oil, we could reduce our trade imbalance, increase our economic leverage with Japan, maximize production of Alaskan oil, and by the offsetting agreements, help meet the energy needs of American consumers.

Also, I am looking forward to the amendments to this bill suggested by my colleagues, Mr. ICHORD and Mr. DICKINSON. There may well be some sections of this bill regarding the protection of U.S. security interests which can be improved by amendment. I naturally support increased trade, but we must carefully weigh our national security needs.

I would like to make two very brief points. One is that I voted against going into the Committee on this measure since I felt that it was far too important a subject to be debated on an afternoon when there was barely minimum attendance. I regret the fact that a bill of this magnitude has been scheduled when most of our Members are not in town.

The other point is I for one am a champion of the right of the administration to swap Alaskan oil. I realize that because of the palace coup that took place last week the administration seems to be in total disarray. It is my understanding they are not going to try to knock out the McKinney-Wolpe amendment, so I am not going to be doing their work for them. But let me point out it would be good administrative policy to have the option to swap. It would reduce our balance-of-payments deficit with Japan. The real beneficiaries would be the consumers on the east coast, and that is ironic because the environmentalists on the east coast have done more to mess up our energy situation than any segment of society. Yet now they do not have enough commonsense to appreciate the fact that a swap of Alaskan oil would be to their benefit.

With those words of wisdom, I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Chairman, I yield 4 minutes to the gentleman from Montana (Mr. MARLENEE).

(Mr. MARLENEE asked and was given permission to revise and extend his remarks.)

Mr. MARLENEE. Mr. Chairman, I rise in support of the provisions to maintain the prohibition on exporting Alaskan crude oil as contained in the Export Administration Act of 1979, H.R. 4034.

This Nation must vigorously pursue the goal, of increased domestic production of oil and the maximum utilization of our own reserves. The recent problems, so clearly illustrated by the shutdown of Iranian oil production, from where we received only 10 percent of our oil imports, have all too sadly pointed out just how little we learned about the consequences of increased dependence on foreign nations for our crude oil supplies. This dependence has now reached a point where approximately 48 percent of our oil needs come from foreign nations.

This level of dependence is dangerous,

and indeed could bring this Nation to a standstill should the unstable picture in the Middle-East worsen. Furthermore, this dependence is absolutely unnecessary. Our country has a wealth of oil in Alaska that can decrease our energy dependence and at the same time do much to increase our level of energy independence.

The United States must utilize its Alaskan reserves to the fullest extent possible here in this country and not in Japan or any other nation. These reserves are, however, being underutilized because of the failure to construct a pipeline to transport this crude oil from Alaska to the lower 48 States. This failure is, to a large degree, due to massive Federal regulations. These requirements have been partly to blame for the withdrawal of the Sohio Company's proposed pipeline from California to Texas.

Nonetheless, we do have another chance to bring this crude oil to the lower 48. This chance is the Northern Tier pipeline. If we put our energies into the construction of the pipeline rather than into the obstruction of the pipeline, we will take a major step toward maximizing the use of our Alaskan reserves. This pipeline, as many of you know, will be capable of bringing Alaskan oil to all of the Northern Tier States and refineries from Washington to Minnesota. It also has the potential of supplying Alaskan oil to secondary markets as far south as Kansas City. These benefits do not even include the obvious ones of savings to our balance-of-payments problem and increased jobs that will result.

Construction of the pipeline can only be accomplished, however, by maintaining the prohibition against exporting Alaskan oil. To allow the export of Alaskan oil, will leave this Nation without a pipeline for efficiently transporting the oil to the lower 48 States. The Nation is facing a termination, by 1982, of all Canadian crude oil imports not on an exchange basis. The refineries in the Northern Tier have been heavily dependent on these Canadian supplies and to allow this to happen would subject these States to the same oil shortage problems now plaguing the Northeastern section of this Nation.

Because of this situation Montana is now in danger of not having sufficient diesel fuel to harvest the crops now standing. The crops will not wait, hungry cold people will not wait and we should not wait on using our own oil in our own pipeline.

One other point needs to be made about the need to keep our Alaskan oil reserves in this Nation. The President, in his recent energy speech, emphatically stated his intentions to import not one more drop of oil into the United States than what was imported in 1977. If he intends to hold to this goal then there is no question but that Alaskan oil must not be exported.

I urge my colleagues to vote in favor of H.R. 4034 and in favor of increased energy independence.

Mr. BINGHAM. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. VENTO).

(Mr. VENTO asked and was given permission to revise and extend his remarks.)

Mr. VENTO. Mr. Chairman, I want first of all to congratulate the gentleman from New York (Mr. BINGHAM), the ranking minority member and the members of the committee for their work in bringing this legislation to the floor. The amendment to the Export Administration Act, which we have under consideration today, I think will go far to bring rationality to the export licensing, which at times seems to defy explanation.

The fact of the matter is I think the review of various products and commodities leaving this country is, of course, an extremely important task in a time when we are concerned about our national security, when we are concerned about the balance-of-trade problem that this country faces. I believe that the balance-of-trade problem probably eclipses any other economic problems that our country has to deal with and, indeed, the resources and the amendments to Export Administration are modest considering the magnitude of the balance-of-trade problem. When we look at the authorization in the bill for $7 million and $8 million for fiscal years 1980 and 1981, respectively, the authorization level, indeed, is a modest effort to try and facilitate what should really be a centerpiece, a keystone of our trade program.

The other resources and tools available through the Export-Import Bank are again modest, when compared to the magnitude of the need. This country in the past fiscal year exported in excess of $175 billion worth of goods and commodities.

On the opposite side of that we imported something in the neighborhood of $200 billion-plus which, of course, results in our balance-of-trade deficit, largely from the importation of foreign oil that has so plagued our economy and will continue to do so until we diminish the use of it, and until we can increase the commodities that we trade abroad.

This bill, I think, provides for some major initiatives to accomplish that increase in trade. I think these are modest provisions, and I think the provisions for bartering are good. As an example I think that it provides the opportunity to reduce costly overregulation that has been superimposed on our businesses, multinational corporations in this country which really, in essence, has resulted in the loss of the business, the loss of the jobs, the loss of some markets to the American products and to this country in general, only to have those other countries in which the multinational companies are located pick up those same business contracts.

□ 1530

So, I hope that this sets a demarcation no matter what the structure of our Government trade administration, and I know that there have been major reforms suggested for structuring or restructuring our administration, the amendments to the Export Administration Act will help facilitate trade. Unless we put into the administrations' hands a clear policy, which the gentleman and the subcommittee have attempted to do in this case, we will not fare well in terms of our trade initiatives. I think this is a commendable effort along those lines. We have a long way to go before the realization of our improved trade goals and curbing the limits we have self imposed, trade restrictions which operate to an American disadvantage, in the world marketplace and beyond the actual needs of national security and our responsibilities to set a policy for the free world.

Let me point out an example of the problems we hopefully will avert in our future trade activities.

I recall specifically a recent instance when Univac, a major employer in my district, lost a $6.8 million computer contract because of misguided foreign policy consideration and prolonged delays. Tass, the Soviet news service, in an effort to upgrade its news handling facilities in preparation for the Moscow Olympic games contracted for a down-rated computer similar to one previously licensed for export to Aeroflot, the Russian airline.

The computer was ready to be shipped in July 1978 but the stalling game by our Government continued until early April 1979 when finally the license was cleared. By that time, Tass decided to terminate its agreement with Univac and place an order with a French computer consortium for a more sophisticated and expensive system—$17.5 million—and one presumably usable in defense applications.

As a consequence of the Government's maladroit handling of this export license application, the country lost a sizable contract, many man-years of work, and, of course, profits, and opened the opportunity for the Soviets to purchase a computer system with possible defense-related capabilities.

A further result of forcing the Soviets into the arms of the French computer consortium is a new and more ominous development for the U.S. national security. A few days ago it was announced that as the fruit of the Tass computer sale the Soviet Union and France have reached a basic understanding to develop jointly a generation of computers and related equipment for the use in the decade after 1985. What the Soviets could not get if they were to rely on U.S. computer suppliers they will now quickly receive through their acquiescent French connection, CII-Honeywell-Bull.

I believe it is essential if we are serious about international trade, about reducing the adverse balance of trade and about coping with domestic inflation that we do a better job of organizing our export licensing process.

The bill H.R. 4034 should be passed.

Mr. LAGOMARSINO. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut (Mr. McKINNEY).

(Mr. McKINNEY asked and was given permission to revise and extend his remarks.)

Mr. McKINNEY. Mr. Chairman, since

I first become involved in the effort to restrict the export of Alaskan oil, I have witnessed a number of attempts to justify the export of one-half million barrels of that oil each day. One of the most enduring of these arguments has been the need for Presidential "flexibility" in utilizing the 2 million barrels of oil from Alaska's North Slope. Armed with the "flexibility" argument, this administration and other proponents of Alaskan oil exports have unabashedly pursued the simultaneous and contradictory goals of decreasing our reliance on imports and exporting Alaskan crude. I think it is high time that the Presidential "flexibility" argument be put to rest—for good. Such flexibility may be needed in managing the Department of Energy but it has no place in efforts to free ourselves from the stronghold of the OPEC nations. There is only one clear path to achieve that goal—the use of every available source of domestically produced energy in domestic markets.

This Congress has taken a great deal of criticism from the American people, the American business community and the administration for its failure to pass necessary energy initiatives. Some of that criticism is justified. But the record should be set straight. It was this body passed the first synthetic fuels bill 1 month ago. It was in this body that the first solar energy development bank was proposed. Two years ago this body enacted an amendment to commit the nation's offshore oil to domestic use. And, it was in this body that the only legislation committing Alaskan oil for domestic use was passed, 240-to-166. I know this, Mr. Chairman, because I have been directly involved in each of these efforts.

Today, the House of Representatives again has the opportunity to demonstrate its commitment to a future of energy independence by extending the restriction on the export of Alaskan oil. Justification for the extension of the export ban goes far beyond the most obvious arguments for committing domestically produced oil to domestic use. The justifications are more substantial than the need to hold the North Slope producers accountable to their promises, made in 1973 when the Trans-Alaska Pipeline Authorization Act was passed, of foregoing the financial attraction of exports and reserving Alaskan crude for use in domestic markets. The arguments for extending the export restriction on Alaskan oil—which expired on June 22—go beyond even the debilitating effect which an export or exchange would have on the already crippled U.S. maritime industry. There are sound economic reasons which dictate the need to insure that Alaskan oil is delivered, refined and consumed in U.S. markets. These reasons, Mr. Chairman, cannot be overcome by some inappropriate fixation upon Presidential "flexibility" in decisionmaking.

Reduced transportation costs, which work to increase producer profits, is another durable argument of questionable reasoning that proponents have used to justify the export of Alaskan crude. It is true that the Alaskan North Slope producers stand to gain an additional $2 per barrel—averaging delivery costs to both the west and the gulf coasts—by exporting that oil rather than delivering it to domestic markets. However, in making the transportation savings, that $2 per barrel would not be realized by the consumer. The total savings would instead be added to a steadily increasing profit margin resulting from the production of North Slope crude.

Proponents of an export or exchange claim that the transportation savings are necessary in order to insure profitability in producing Alaskan oil. The facts show otherwise. Consider that in the first quarter of this year, Standard Oil of Ohio, the North Slope's largest producer with 52 percent of the oil, increased its profits over the first quarter of the previous year by 302 percent. That increase was attributed by the chairman of Sohio to production on Alaska's North Slope. Profits for the second quarter of this year, due to be reported this week, should show an additional 70 percent increase above the first quarter. And, after tax profits for Alaskan oil delivered on the west coast are an incredible $4 per barrel. That figure represents an 85 percent increase in after tax profits reported in December.

In light of this very lucrative venture, arguments for increasing producer profits by saving in transportation costs cannot compare with the need to commit that oil to our domestic markets. Not only do the figures indicate that the Alaskan oil producers are presently enjoying a tremendous return on investment; they further refute the arguments posed that increased profits are necessary for meeting additional production. Without an export option, and therefore without the additional transportation savings of an export, the North Slope producers have already scheduled a 25-percent increase in production by the end of this year. Furthermore, Atlantic Richfield Co., another North Slope producer, has announced plans to begin commercial development of Alaska's Kuparuk field at 60,000 barrels per day by 1982. Clearly, these production plans argue persuasively against the need to open Alaskan oil production to the world markets.

Proponents of an export or exchange of Alaskan oil have made further arguments that insufficient markets for Alaskan oil in the United States necessitate an exchange. If there was any validity to these arguments in 1975, there is certainly none today. Unlike a few years ago when I first became involved in this issue, there are more than adequate markets, in fact growing demands, for Alaskan crude. Its heavier gravity makes it most suitable for distillation into home heating oil and when compared to $30 to $35 a barrel spot market crude, it is no wonder that U.S. refiners in the Caribbean are eager to receive $18 Alaskan crude.

On the west coast, where the infamous Alaskan oil "glut" became the rallying cry for export proponents, refiners have increased their take of Alaskan crude from 600,000 barrels per day to almost 900,000 barrels per day in the last few months. This new-found refining capacity and the elimination of the "glut" are most likely attributable to both the increasing profitability of producing Alaskan oil and the sharp rise in the price of imported crudes.

Officially, however, west coast refiners claim the 300,000 barrel per day increase in ANS crude refining is a result of: First, experience with handling the oil, second, the ripple effect of the shut down of Iranian production, and third, the failure to bring San Joaquin Valley production on line as expected. Interestingly enough, the increased refining of Alaskan crude on the west coast has occurred without the expensive refinery retrofits that were earlier alleged to have been necessary in order to profitably market Alaskan oil in the lower 48.

This increasing demand for Alaskan crude in the domestic markets is all very good and understandable but can be no substitute for the continuing need to develop an effective transportation system to distribute the oil eastward. Producers of Alaskan oil, most notably Sohio, assured this House on several occasions that any export or exchange of Alaskan oil would be a temporary one because their plans for the construction of a pipeline to deliver that oil would be fulfilled in a few years.

Short of saying "I told you so," I have long contended that Sohio's Pactex Pipeline Project, which was to deliver Alaskan crude from Long Beach, Calif., to Midland, Tex., was a convenient argument to delay the enactment of an Alaskan oil export restriction. Despite the success of legislation in the House Interior Committee, which would have effectively eliminated any further environmental obstruction to the Pactex project, and despite the administration's commitment to the same, the board of Sohio chose to scrap the project. I would suggest that the increasing marketability of Alaskan crude on the gulf and west coast played a role in that decision.

The need to develop a transportation infrastructure to deliver Alaskan crude east still remains. Despite Sohio's decision, the Government has a responsibility to revitalize that project and to grant all the regulatory and financial assistance necessary to complete the Northern Tier Pipeline project. Without a clear mandate from this Congress, committing all of the North Slope's production to U.S. markets, the incentive to proceed with these projects will quickly fade away.

Questions have been raised, Mr. Chairman, about the effects on the U.S. balance of trade in the event of an export or exchange. Let me make this clear. Alaskan oil is now and, unless regulatory action is taken, will in the near future be priced lower than either Mexican or OPEC crude Therefore, in the event of an exchange of Alaskan oil for foreign crude, this country would incur a balance-of-trade loss. In a study by Robert R. Nathan Associates the question of an Alaskan oil exchange was analysed. That study found that even reducing annual costs to this country by 0.37, which represents the net amount of total outlays to foreign sources returning to the United States in the form of demand for domestically produced goods and services, under a best-case scenerio—wherein

half of the Alaskan oil is transported on American bottom tankers and exchanged with Japan for Mexican crude—the United States would incur a $182 million deficit annually.

Finally, Mr. Chairman, let me emphasize that the legislation which I introduced and which was subsequently included in this bill, H.R. 4034, is intended to apply solely to oil that is transported pursuant to rights of way granted under the Trans-Alaska Pipeline Authorization Act of 1973. Nor does this legislation in any way attempt to preclude the fulfillment of our treaty obligations with Israel either pursuant to the 1975 Sinai Treaty nor the most recent agreement resulting from the Egyptian-Israeli peace agreement.

Mr. Chairman, we need to commit every available domestic energy resource to our battle for political and economic independence. Alaskan oil is among the most readily available of those resources. I was heartened by the action of the recent Senate in passing an export restriction that is simiar to one before us today. It was pleasing to learn that so many Members of that body, who just 2 years ago had voted against an export ban, have realized the importance of insuring the domestic distribution of that oil. I commend the Senate for its action and I urge all of my colleagues in the House to support this legislation.

Mr. BINGHAM. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. ICHORD).

(Mr. ICHORD asked and was given permission to revise and extend his remarks.)

Mr. ICHORD. Mr. Chairman and members of the committee, I thank the distinguished gentleman from New York for yielding me this time. But, I must agree, Mr. Chairman, with the gentleman from Illinois (Mr. DERWINSKI). I think it is unfortunate that a bill of this magnitude is being debated today when so many Members are not here to hear this very important matter being debated.

I also agree with the gentleman from California (Mr. LAGOMARSINO), that the provisions regarding reexport conditions must be deleted from this bill. H.R. 4034 has been reported out of the Committee on Foreign Affairs as a result of considering eight bills. One of those bills H.R. 3216 was referred to the House Armed Services Committee. In fact, this bill covers one subject which is also under the jurisdiction of the House Armed Services Committee, and that is the transfer of military technology.

The House Armed Services Committee has held long and extensive hearings on this particular aspect and in fact the hearings are still being conducted on H.R. 3216, one of the bills that was considered in making up H.R. 4034. I have hearings scheduled for tomorrow morning, and the House Armed Services Research and Development Subcommittee has voted to offer several amendments to this bill which I think must be adopted in the interest of national security.

Mr. Chairman, the reason why I say this—and I think perhaps the gentleman from New York will agree, although he may disagree as to the effects of the particular provisions of this bill—is that on May 24 Mr. Larry Brady, the Acting Director of the Office of Export Administration, testified before the Subcommittee on Research and Development that, and I quote: "The export control system as it is today is a total shambles."

□ 1540

After extensive review, I would say with respect to the transfer of military technology, that any inaccuracies in that evaluation by Mr. Brady as far as national security is concerned lie only in its understatement of the current situation. For example, last Wednesday I received a letter from Secretary Kreps advising me that contrary to testimony received and to news accounts, there was in fact no diversion in connection with the Kama River truck factory. I would advise the members of the committee that we have not only transferred according to some sources about $1.5 billion worth of machinery but also sophisticated computers that make up the Kama River truck factory, the largest truck factory in the world. This statement by Mrs. Kreps, made in the face of credible and verified reports that hundreds of trucks from Kama River have been seen in military units in eastern Europe, caused me to schedule this hearing tomorrow morning to get to the truth in this matter. If in fact there is no violation of U.S. export controls as alleged by Secretary Kreps, then I would question the wisdom of our entire export policy.

In any event, Mr. Chairman, on behalf of the Research and Development Subcommittee, I will offer one amendment affecting the transfer of critical military technology. The amendment which will be offered to the House will bring about a clarification of the Secretary of Defense's responsibility for identifying critical technology, and the amendment will also mandate that a list of critical technology be established by October 1, 1980. I believe the critical technology approach is ready to fly and is the only safe and sane way of protecting our perishable technological lead over our potential adversaries.

The second amendment which I will offer seeks to delete the authority for the establishment of a procedure to identify technology thresholds below which goods and technologies would be exempted from special licensing requirements. This procedure titled "indexing" defies effective administration and would be an exercise in dangerous speculation from a national security perspective.

My final amendment deletes the aforementioned provision eliminating requirements for reexport permits. This provision should be of great concern to the proponents of trade for in the absence of reexport controls a substantial number of license applications are likely to be denied. Likewise this provision would significantly effect controls for national security purposes.

Mr. Chairman, there are three considerations which must be made in administering export controls: Protection of our domestic economy; regulation of trade for consistency of foreign policy, and restriction of export of goods and technologies to protect our national security.

It is this last consideration, national security which is our concern.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BINGHAM. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. ROBERTS).

(Mr. ROBERTS asked and was given permission to revise and extend his remarks.)

Mr. ROBERTS. Mr. Chairman, I appreciate the gentleman from New York's yielding me time. I was just checking the monitor when the gentleman from Michigan was talking about prohibition of any shipment of Alaskan oil to other countries. That obviously is based on the assumption that a barrel of oil is a barrel of oil, and that simply is not so.

My district has in it the largest producing oil field in the world. East Texas oil field has been producing now for 50 years. It had 26,000 producing wells at one time. They produce a high-gravity oil. The oil from Alaska is not only low-gravity, it is high-sulfur, which means in the refining process it makes a lot of sulfuric acid, and for that reason only three or four of the California refineries can handle it and it has to be shipped to Texas where all the coast oil is high sulfur.

So let me put it this way. With Alaska oil, a barrel, of course, is 42 gallons. You get maybe 14 to 18 gallons of gasoline or distillate. With Indonesian crude you get about 24 to 26 gallons of middle distillate or gasoline. The value of the Alaskan crude is primarily in the feedstocks because you can make four or five times as many plastics and other products out of Alaskan crude as you can out of Texas crude, or 10 times as much maybe as Indonesian crude.

I hope the committee will look into it thoroughly and not put a prohibition on it, because if we can trade one barrel of Alaskan crude for one barrel of Indonesian crude, we are going to get a lot more gasoline and distillate than we would otherwise. It is true we would lose the feedstocks, but we have all the feedstocks we can possibly use. I am sure if the committee will check into it, they will find that a prohibition will not be to our best interest. If we can trade for Mexican crude, we would average 50 percent more gasoline or distillate from Mexican crude, if we could trade on a barrel-for-barrel basis. I hope we would not prohibit the transfer before we get Mexican crude or Indonesian crude in return.

I thank the gentleman very much.

Mr. LAGOMARSINO. Mr. Chairman, I have no further requests for time at this time, and I will reserve the remainder of my time.

Mr. BINGHAM. Mr. Chairman, I yield myself so much time as I may consume.

Mr. Chairman, I would like to comment very briefly on two of the points raised by the gentleman from Missouri (Mr. ICHORD), who has been conducting extensive hearings on this problem. First of all, with respect to the comment made in testimony by Mr. Brady that the administration of the export control sys-

tem is a total shambles, I have talked to Mr. Brady. I know that he was very dissatisfied with the way the system was being operated, but that is not to say that he is critical from the point of view that items of critical technology have been exported to the Communist countries. His criticism had much more to do with the way in which the program was being administered, and I think many of his criticisms would be shared by industry.

The witnesses who came before us from industry complained that they were being subjected to inordinate delays in the processing of their applications, frequently being held up for a year or 18 months, long enough to lose their business to a competitor in Western Europe, and then finally having their licenses granted. This was enough to drive many of these exporters right up the wall. They would agree that the administration of the program was in a total shambles.

The effort of this bill is to tighten up on that administration, to improve it without in any way endangering the national security.

Now as to the Kama River plant, I have inserted in my remarks the letter from the Secretary of Commerce with respect to that plant. The fact of the matter is, and I think it is of interest to the Members because there has been a great deal of discussion on this, this is a huge truck plant that makes trucks and motors, but they are standard trucks, and the only confirmed information that we have about the use of the products of that plant for military purposes is that some of these standard trucks have been seen in military motor pools. When these export licenses were granted, and they were granted in the administration of President Nixon with the explicit approval of Secretary Kissinger, there were no restrictions put on the use of the trucks being produced at the plant. That was a deliberate decision because these were of a general nature. When you sell anything, when you sell common tools, a hammer or screwdriver, to the Soviet Union, it can find its way to the military. It can be put to military use. But it is not correct to say that there has been diversion or violation of an agreement, because there was no condition put on the export licenses of that machinery.

Mr. ICHORD. Mr. Chairman, will the gentleman yield for a question on that point?

Mr. BINGHAM. I yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding. Is the distinguished gentleman from New York telling this House that the Kama River truck plant is not being used to produce military trucks for the Soviet Armed Forces?

Mr. BINGHAM. The information that we have is that they are producing standard trucks, which are the same for military as for civilian use, and that some of those trucks have been seen in military motor pools. I am also saying that there was no diversion because there was no restraint in the licenses that were granted. There was no restraint on the end use of the products. The only item that was sold to the Kama River plant that was subject to the restraint was the computer that the gentleman referred to, and there is no evidence that that computer has been used contrary to the agreements that were connected with it, which had to do with the quantity of work to be produced by the computer, not with the end use of the products of the plant.

The CHAIRMAN. The time of the gentleman has expired.

□ 1550

Mr. LAGOMARSINO. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. I thank the gentleman for yielding, Mr. Chairman.

If I could have the attention of the chairman of the subcommittee, I do not know whether the gentleman answered the question or not. I respectfully submit that the gentleman did not answer the question asked.

Is the gentleman telling this House that the Kama River truck plant is not manufacturing Soviet military trucks? Yes or no.

Mr. BINGHAM. I cannot answer the question as put. They are standard trucks which have been used for military purposes. We knew that all along. There was no surprise here. We knew all along these trucks could be so used.

Mr. ICHORD. If I could reclaim my time, I might say to the Members of the House there is some question as to whether they are strictly military trucks. I do have intelligence information, and will probably pursue this in hearings with the Commerce Department tomorrow morning.

The gentleman uses the term "standard trucks." Those standard trucks are being supplied to the Soviet and Warsaw Pact military forces.

With all due respect to the gentleman from New York, I think you are dealing simply in rhetoric when you say there was no diversion. It may well have been that the Department of Commerce did not put the proper end-use restrictions on the computers and all of the machinery in the Kama River truck factory, but the absence of adequate safeguards is the reason why the acting director, Mr. Brady, stated that the export program is in a total shambles. I would say to the gentleman from New York that Mr. Brady testified specifically on the control of military technology and the ineffectiveness of end-use statements.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LAGOMARSINO. Mr. Chairman, I yield 1 additional minute to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Chairman, I would yield to the gentleman from New York for a comment on the remarks I made.

Mr. BINGHAM. One comment I would make is that the licenses in question were issued in the early 1970's. I do not know whether Mr. Brady was even there at that time but he certainly did not make his comments about the inadequacy of the present administration in terms of something that happened back in 1970 under the Nixon administration.

Mr. ICHORD. Let me say to the gentleman from New York, Mr. Brady was not confining his assessment to this administration. His remarks were made with regard to this administration, the preceding administration and the administration before that. He was not singling out the Carter administration. I think the administration of export controls has been in a shambles for a long period of time and I agree with the gentleman from New York we have to reach a proper balance.

I do not think you can stop the export of all technology to the Soviet Union but I think you can delay, Mr. Chairman, the export of technology. That is the only lead we have, technology. We certainly have no lead in conventional military capability.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LAGOMARSINO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to respond briefly to some of the comments that were may by the gentleman from Illinois (Mr. DERWINSKI) and the gentleman from Texas (Mr. ROBERTS) about the McKinney-Wolpe amendments regarding the export of Alaskan oil.

Although the McKinney-Wolpe amendments in the bill make it very, very difficult, there is no doubt about that, to export Alaskan oil, they do not make it impossible. They set up a standard and a test that must be followed to do that. One of the things the gentleman from Illinois said was that consumers would suffer if the amendments prevailed. If it can be proven that consumers will come out ahead then the provisions of the bill, and of the amendments, would allow the swap to be made providing, of course, Congress can be persuaded to go along with that idea.

This is a hard test to follow, I will grant you that, but it is not impossible.

Also, Mr. Chairman, the gentleman from Illinois (Mr. DERWINSKI) said if we make a swap with Mexico, between Mexico and Japan, that it would help our balance of trade with Mexico. It certainly would. We would show a plus on the oil export sales to them, we would show a corresponding decrease, though, in the oil we bought from somebody else, whether it is Mexico, Indonesia or whoever. I must also say I believe it would set back our efforts to reach real trade adjustments with Japan by quite a bit because the pressure would be taken off of them to buy others of our imports, such things as agricultural products and other things that we have been trying to get them to buy more of.

I am sure there will be a debate about this particular matter when we get into the 5-minute rule but I did want to make plain what were my thoughts about this comment.

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

● Mr. HEFTEL. Mr. Chairman, at a time when we are encouraging use of domestic oil—to reduce our dependence on foreign imports, ease our shortages, and to assist in restoring our outrageous balance-of-payments problem, a refining company in Hawaii is unable to effi-

ciently utilize domestic crude oil since a byproduct of the refining process results in high sulphur residual fuel oil, a product for which no readily available market exists.

The refining company, which has historically processed 100 percent imported crude oil, has been seeking Alaskan crude oil to use in a projected expansion of its refinery capacity. The use of Alaskan crude oil in the expanded portion of this refinery would stimulate the use of domestic oil in Hawaii, which has been almost 90 percent dependent upon foreign sources for its crude oil.

Hawaii has a heavy demand for transportation fuels (jet fuel, gasoline, and diesel fuel) for its tourist-oriented economy and has minimal needs for residual fuel oil. The fuel balance situation in Hawaii is further compounded by the military needs for the same light-end transportation fuels. The refineries in Hawaii are unable to make a sufficient quantity of required transportation fuels without producing an excess of other products—especially residual oil.

Due to the composition of available Alaskan North Slope crude oil, its use in Hawaii's refineries would result in the production of high sulphur residual fuel oil as a by-product of the refining process. U.S. environmental restrictions preclude the marketing of high sulphur residual oil on the west coast, therefore, the only market available for residual fuel oil of such a sulphur content (1.74 percent sulphur by weight) would be in the export market.

It is important that we successfully stimulate production of domestic crude oils, provide products which meet stringent environmental regulations to U.S. firms and provide additional fuels of the types required to meet both civilian and U.S. military defense needs in Hawaii. This can be accomplished by utilizing Alaskan crude oil in incrementally increased refinery capacity.

In view of this, I strongly urge that the Department of Commerce include the addition of "refinery by-products including high sulphur residual fuel oil," to the provision instructing the Department in carrying out its responsibilities.

This would allow my State to utilize ANS crude oil, to manufacture more of the fuels needed in Hawaii and to dispose of, through export, the high sulphur residual fuel which would be a by-product of the refining process.●

Mr. FOLEY. Mr. Chairman, I want to commend the distinguished chairman of the Committee on Foreign Affairs and the other members of his committee for their work in bringing this legislation to the floor.

I am concerned, however, over the implications of section 110 of the bill as reported. The language of that section provides that the Secretary shall require a valid license under redesignated section 7 of the act for the export of unprocessed western red cedar logs harvested from public lands and requires phaseout of export of such logs over a 4-year period.

I want to assure the House that I share the concern of my colleague from Washington (Mr. BONKER), the author of the amendment, over the plight of the small timber mill operator in our State. Section 110 is, however, only one approach to the extraordinarily complex and highly controversial problems associated with maintaining an adequate timber supply to support the mill operations that are the backbone of the economy in many of the small communities in the State of Washington and the Pacific Northwest.

I am concerned that the approach suggested in section 110 may have certain consequences that could prove to be damaging to the Nation as a whole. I am particularly disturbed over the possibility that this language will be used as a precedent to place absolute prohibitions in statutory language on other commodities. This seems to run contrary to this administration's overall efforts to develop foreign markets for our agricultural and forestry resources. History indicates that once a foreign market is lost it is extremely difficult to regain.

I want to indicate to the House that I am perfectly willing to go along with the committee on this section of the bill as reported. I do not feel, however, that this approach should be extended beyond the narrow scope of section 110.

It is important, as I see it, that Congress proceed very cautiously in this area so that the markets for our agricultural and forest products can be maintained and enhanced as a means of addressing the serious trade deficit resulting from the importation of foreign oil.●

The CHAIRMAN. All time has expired.

Mr. BINGHAM. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the bill just considered, H.R. 4034.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

NURSE TRAINING AMENDMENTS OF 1979

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3633) to amend title VIII of the Public Health Service Act to extend for 1 fiscal year the program of assistance for nurse training, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3633, with Mr. SEIBERLING in the chair.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. WAXMAN) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

(Mr. WAXMAN asked and was given permission to revise and extend his remarks.)

Mr. WAXMAN. Mr. Chairman, the legislation before us today, H.R. 3633, the Nurse Training Amendments of 1979, as reported by the Committee on Interstate and Foreign Commerce, would amend: First title VIII of the Public Health Service Act to extend for 1 fiscal year the programs of assistance for nurse training; second, title VII of the Public Health Service Act relating to program requirements for the training of other health professions; and third, title II of the Public Health Service Act to provide for more efficient administration of the Commissioned Corps of the Public Health Service.

The Nurse Training Amendments of 1979 is an important measure with bipartisan support indicated by the fact that the bill is cosponsored by 12 members of the Subcommittee on Health and the Environment and has the overwhelming support of both the Subcommittee and the Committee on Interstate and Foreign Commerce.

The President vetoed the Nurse Training Amendments of 1978, which passed the House by a vote of 393 to 12. The President, in his memorandum of disapproval, cited budget restraints as a major reason for vetoing the bill. In response to the current economic situation, the Subcommittee on Health and the Environment reported a bill which authorizes less than 50 percent of the amount authorized in last year's bill for fiscal year 1980. This sharp reduction in authority accommodates budgetary constraints, without jeopardizing the nursing profession.

In general, the bill is a 1-year extension of the Nurse Training Act authorizing appropriations at levels similar to the current fiscal year's appropriations, finalized by adoption of the Budget Authority Rescission Act of 1979.

Among its other provisions, the bill establishes new authority for the training of nurse anesthetists, as did the Nurse Training Amendments of 1978; authorizes the Secretary to increase the

rently processing checks, NOW's, share drafts and in-NOW's on the same terms and this legislation is premised on the assumption that this will continue to be the case.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I appreciate the gentleman's comments and concur completely in the view that the general business practice rather than legal terminology should be the criteria for processing payment instruments through the Federal Reserve System.

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

PERSONAL EXPLANATION

Mr. CAVANAUGH. Mr. Speaker, I was present in the Chamber during the last vote and inadvertently did not have my vote recorded.

I would like the record to reflect I was present and would have voted "aye" had my vote been recorded.

EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4034, with Mr. SEIBERLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, July 23, 1979, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 4034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EXPORT ADMINISTRATION

SHORT TITLE

(Mr. ICHORD asked and was given permission to revise and extend his remarks.)

Mr. ICHORD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time for the purpose of asking the manager of the bill questions about the developments that have occurred in this legislation.

First, may I point out to the gentleman and the Members of the House that this bill is an extremely complicated measure dealing with extremely difficult and complicated subjects. If there is any Member of this body who does not believe the statement I have just made, I ask you to pick up a copy of H.R. 4034 and, particularly, if you have not been dealing with the subjects covered by this bill on a day in and day out basis or if you have not made a special attempt to understand the provisions of this bill, I defy any Member of this body to read the sections and tell me just exactly what the bill does.

Mr. Chairman, this is an export control bill. It is not a trade bill, although it certainly affects trade.

It is export control for three purposes.

First, it deals with control of items in short supply. In other words, to protect the domestic economy.

Second, Mr. Chairman, it deals with export controls for the purpose of effecting foreign policy.

Third, Mr. Chairman, and the one about which I am greatly concerned, it deals with export controls for the purpose of protecting the national security of the United States.

Mr. Chairman, this bill has been reported from the Committee on Foreign Affairs. It covers these three subjects. I would point out it is the latter, the control over the national security, where the Committee on Armed Services also retains jurisdiction. It is the House Committee on Armed Services that has the expertise and has the staff that has the expertise in matters affecting the national security of this country. Not the House Committee on Foreign Affairs.

□ 1250

I will agree that the House Committee on Foreign Affairs are the experts on controls to effect our foreign policy.

I would point out that this measure could very well involve the most important national security votes that the Members are going to cast this year. Why do I say that? Because of what has happened in recent years to the national security of this country.

Let me remind the Members of the House that in the field of strategic warfare we have gone from a position of nuclear monopoly in the 1950's, to a position of overwhelming superiority in the 1960's, to a position of essential equivalence today, whatever that means.

In the field of conventional warfare, the Members are acquainted with the numbers. They are horrifying.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. ICHORD) has expired.

(By unanimous consent, Mr. ICHORD was allowed to proceed for 5 additional minutes.)

Mr. ICHORD. In the field of conventional military capability, the figures are horrifying, I say to the Members of the House; 7 to 1 in the case of tanks, 4 to 1 in the case of artillery pieces, 4 to 1 in the case of aircraft, 50 to 1 in the case of chemical warfare capability.

The only lead that we have over the Soviet Union today, our potential adversary, is in the field of technology. That is what we are dealing with today, technology, dual technology which has a military application as well as a commercial application. This bill is the result of several measures that were introduced dealing with controls for the purpose of items in short supply, items affecting foreign policy, items affecting national security.

One of those bills, H.R. 3216, was referred jointly to the Committe on House Armed Services and the Committee on Foreign Affairs. H.R. 4034 comes before this body under very unusual circumstances. All bills were referred to the subcommittee of the gentleman from New York (Mr. BINGHAM). The gentleman reported out one measure to the full committee. The full committee started work on the bill and dropped that and reported out H.R. 4034.

Now, H.R. 3216 dealt only with controls for national security purposes. I would state to the gentleman from New York that I am very much concerned that this bill covers so much, export controls for the purpose of protecting the domestic economy, and that is a broad complicated subject within itself; export controls for the purpose of affecting foreign policy is another broad subject. Export controls for the purpose of protecting the national security is another complicated subject and which is in the expertise of the Committee on Armed Services.

The gentleman from New York (Mr. WOLFF) was the author, the principal author of H.R. 3216. The gentleman has been very instrumental in attaching amendments to this bill in the interest of national security.

I would like to ask the gentleman from New York (Mr. BINGHAM). I am quite concerned about the elimination of the reexport provisions on page 20 of the bill. This would permit a company within the United States, once it has exported technology to its foreign subsidiary to forget about any U.S. controls. If the foreign country had little or no controls, the technology could easily be transferred to our potential adversaries.

It is my understanding that the gentleman from New York (Mr. BINGHAM) has agreed with the gentleman from New York (Mr. WOLFF) to accept the gentleman's amendment eliminating subsection (3) on page 20; is that correct?

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

I will have a colloquy with the gentleman from New York (Mr. WOLFF) when the gentleman offers that amendment. I do expect to express my opinion, but that amendment is one I have no objection to.

I think there should be some discussion of it at the time so that we have some legislative record; but I think it would be appropriate that that discussion take place when the amendment is offered.

Mr. ICHORD. Then I am very happy that the gentleman is accepting the amendment of the gentleman from New York.

Let me ask the gentleman from New York a question about indexing. I am very much concerned about that and I know the gentleman from New York (Mr. WOLFF) is concerned about it. Have the gentlemen worked out an agreement, will the gentleman from New York (Mr. WOLFF) offer such an amendment, and will the gentleman from New York (Mr.

BINGHAM) accept such an amendment eliminating indexing?.

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield again, it is my understanding that the gentleman from Missouri (Mr. ICHORD) will offer the amendment on indexing and I shall be constrained to oppose that amendment.

Mr. ICHORD. Mr. Chairman, let me state to the gentleman from New York (Mr. BINGHAM) that I held extensive hearings, as I stated, on H.R. 3216. We also discussed the provisions of this measure, H.R. 4034. I could not find a witness coming before the committee who was able to explain to me just what is meant by the language that is used in the indexing provision. All of the members of my staff, who are experts, technological experts, have been unable to explain to me what is meant by this language.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. ICHORD) has again expired.

Mr. ICHORD. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. BINGHAM. Mr. Chairman, reserving the right to object, and I shall not object, but I must say, I find this unusual procedure. The normal procedure is to go ahead and read the bill and discuss the amendments as they come up.

The gentleman from Missouri is asking me a number of questions. I am not holding back anything, but it seems to me we will have to go over this again when the amendment is raised, so why try to do it now in advance?

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri (Mr. ICHORD) to proceed for 3 additional minutes?

There was no objection.

Mr. ICHORD. Mr. Chairman, this bill, I would state to the gentleman from New York, deals with the national security of the United States, and as I stated before, I think we are going to cast some of the most important votes that we are going to cast this year on national security.

The gentleman from New York has worked out several agreements with the gentleman from New York (Mr. WOLFF). I want to make sure just what has been worked out so I can understand the provisions of this bill, because there is a lot of vagueness, there are a lot of ambiguities.

Let me point this out to the gentleman from New York. Here is the way the matter of indexing has been explained. I do not know what we mean by "indexing."

Your committee report states as follows: "In subsection (g), it provides that the Secretary may, where appropriate, establish an indexing system providing for annual increases in the performance levels of goods or technology subject to licensing requirements under this section, in order that such requirements may be periodically removed as such goods or technology become obsolete."

This provision is particularly applicable to computers. How is it applicable to computers?

I direct the attention of the members of the committee to the language on page 16 and tell me what it means. I ask the gentleman from New York to tell me what it means.

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield, I still do not understand why we discuss this now, rather than at the time when the gentleman presents his amendment; but let me give the gentleman a quick answer.

As the gentleman knows, technology is not something static. It changes constantly with advances in technology, and as it changes, items which have been critical, which have been closely held, become common knowledge and no longer can be regarded as critical.

Mr. ICHORD. Why is it particularly applicable to computers, though?

Mr. BINGHAM. Because computers are particularly susceptible to this type of advance. We have heard of generations of computers. There are generations of computers, and what a few years ago was an advanced computer, today is a very common computer. You can buy them in any retail store.

Mr. ICHORD. Does the gentleman mean to sit down and tell me that the 76 Siber computer will be obsolete technology 2 or 3 years from now, or 3 years from now?

Mr. BINGHAM. No; there was never any question, at least not so far as we know, that that particular computer should be licensed.

Mr. ICHORD. Mr. Chairman, I yield back the balance of my time, but I hope the gentleman can explain this language when we are actually debating the indexing amendment.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SECTION 101. This title may be cited as the "Export Administration Act Amendments of 1979".

FINDINGS

SEC. 102. Section 2 of the Export Administration Act of 1969 (50 U.S.C. App. 2401) is amended to read as follows:

"FINDINGS

"SEC. 2. The Congress makes the following findings:

"(1) Exports are important to the economic well-being of the United States.

"(2) A large United States trade deficit weakens the value of the United States dollar, intensifies inflationary pressures in the domestic economy, and heightens instability in the world economy.

"(3) Poor export performance is an important factor contributing to a United States trade deficit.

"(4) It is important for the national interest of the United States that both the private sector and the Federal Government place a high priority on exports, which would strengthen the Nation's economy.

"(5) The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.

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

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

"(8) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

"(9) The export of goods or technology without regard to whether such export makes a significant contribution to the military potential of individual countries may adversely affect the national security of the United States.

"(10) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of technology (and goods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combinations of countries which would be detrimental to the national security of the United States.".

□ 1300

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 102 of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. In there objection to the request of the gentleman from New York?

Mr. ICHORD. Mr. Chairman, reserving the right to object, as I explained a while ago, controls for national security purposes comes under the joint jurisdiction of the Committee on Foreign Affairs and the Committee on Armed Services.

Now, this is an open rule. I have at least two amendments, perhaps three amendments, I would state to the gentleman from New York (Mr. BINGHAM), that I will offer on behalf of the Committee on Armed Services. They are not my amendments alone. They were approved unanimously by the Subcommittee on Research and Development.

I do not want to delay the consideration of this bill. I certainly do not want to inconvenience the gentleman from New York (Mr. WOLFF), who I know has several amendments to offer to this bill and who has recently been involved in an automobile accident, but I do want to make sure that I am able to be recognized to offer an amendment, particularly the one dealing with the transfer of critical military technology, which I consider a very important amendment.

Mr. Chairman, can the gentleman from New York (Mr. BINGHAM) assure me that I will be recognized without any limitations on time?

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield, so far as it is within the power of this Member to give the gentleman that assurance, I am glad to give him that assurance. The gentleman's amendments come under section 104, which is a very long section running from page 6 to page 40 in the bill.

Of course, the members of the Committee on Foreign Affairs will have priority, and primarily that means the gentleman from New York (Mr. WOLFF) and I believe possibly the gentleman from California (Mr. LAGOMARSINO). Other than that, I know of no reason why the gentleman should not be recognized for that purpose in about 20 minutes or a half hour from now.

Mr. ICHORD. Twenty minutes or a half hour from now. How many amendments do we have pending now? Does the gentleman anticipate a long period of time on those amendments?

Mr. BINGHAM. No, I do not, because on some of the amendments the gentleman from New York (Mr. WOLFF) has to offer there will be no disagreement. There are amendments to sections 102 and 103, some of which are unfamiliar to me, and so I cannot give the gentleman a definite answer. But the amendments of the gentleman from Missouri (Mr. ICHORD) do not arise until section 104.

Mr. ICHORD. Mr. Chairman, the gentleman from New York (Mr. BINGHAM) is the manager of the bill, and I am sure the chairman of the committee will acquiesce in the wishes of the manager. Therefore, I will not object.

With that understanding, Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York (Mr. BINGHAM)?

There was no objection.

AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: On page 4, line 7, delete the quotation mark and period at the end thereof and insert the following new paragraph thereafter:

"(11) Minimization of restrictions on exports of agricultural commodities and products is of critical importance to the maintenance of a sound agricultural sector, to achievement of a positive balance of payments, to reducing the level of federal expenditures for agricultural support programs, and to United States cooperation in efforts to eliminate malnutrition and world hunger.".

(Mr. GLICKMAN asked and was given permission to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Chairman, basically this is a fairly simple amendment. It just adds a new finding to the bill which basically provides some additional support for agricultural exports and again creates the burden of proof to see to it that these agricultural exports should proceed forthwith. I think they generally are proceeding in a positive fashion, but I just want to make sure this language does appear in the bill.

So Mr. Chairman, I do offer this amendment at this time.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I would like to commend the gentleman from Kansas (Mr. GLICKMAN) on offering this amendment and providing us with this whole line of thinking.

I think so often we overlook the fact that were it not for the tremendous export capability of this country, our balance-of-payments problem would be probably even much worse than it is. We should keep reminding ourselves and our fellow citizens of the importance of agricultural exports, and I compliment the gentleman for offering this amendment.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman from Missouri (Mr. SKELTON) for his remarks.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I am glad to yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

I have had occasion to examine the gentleman's amendment, and as far as I am concerned, we have no objection to it on this side.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I have also examined the gentleman's amendment, and I have no objection to it. I support it. It is certainly consistent with what we are trying to do in the bill, especially with regard to foreign policy considerations.

I accept the amendment for this side.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I want to commend the gentleman from Kansas (Mr. GLICKMAN) for this amendment, which I strongly support. The gentleman from Kansas and I have discussed the amendment. I give him my wholehearted support and compliment him for offering the amendment.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman from Washington (Mr. FOLEY) and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. GLICKMAN).

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to section 102?

The Chair recognizes the gentleman from New York (Mr. SOLOMON).

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I have an amendment at the desk which amends various sections and various titles throughout the bill. It simply removes or strikes the word, "significant," throughout all those sections, and I ask unanimous consent that these amendments be considered en bloc at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. BINGHAM. Mr. Chairman, reserving the right to object, I have not had a chance to examine the gentleman's amendment. I do not know its significance or the implications of making this change throughout the bill, and under those circumstances I am constrained to object.

I think the gentleman from New York (Mr. SOLOMON) should offer the amendments section by section. I must take that position at this time.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from New York (Mr. BINGHAM) continue to reserve his right to object?

Mr. BINGHAM. I continue to reserve my right to object, Mr. Chairman.

Mr. SOLOMON. Mr. Chairman, will the gentleman from New York (Mr. BINGHAM) yield to me?

Mr. BINGHAM. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I will state to the gentleman from New York (Mr. BINGHAM), for whom I have high respect and who certainly is very familiar with the bill, that the word "significant" appears throughout the existing law in this legislation, and if the gentleman from New York will read the first amendment referring to page 3, line 20, the amendment simply repeats these words throughout the entire bill, so it is very easy to understand.

It simply says that what we are doing is changing the phrase which says, "which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the national security of the United States of America." We simply change that phrase throughout the entire bill by removing the word "significant."

Mr. Chairman, I would like the opportunity to explain the amendment in that context.

Mr. BINGHAM. I must maintain my objection, Mr. Chairman. I think that the matter is not as simple as my colleague, the gentleman from New York (Mr. SOLOMON) has suggested, so I object to the unanimous-consent request.

The CHAIRMAN. Does the gentleman assert his objection?

Mr. BINGHAM. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Does the gentleman from New York (Mr. SOLOMON) offer an amendment?

Mr. SOLOMON. Yes, I do, Mr. Chairman.

Mr. Chairman, I would restructure my amendment to state: On page 3, line 20, strike the word, "significant," and so forth.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: On page 3, line 20; page 4, line 4; page 4, line 14; strike the word "significant" wherever it appears.

Mr. SOLOMON. Mr. Chairman, one of the loopholes in our policy as it now stands which jeopardizes U.S. security is the word, "significant," which appears throughout this bill.

Under the legislation, the Secretary of Commerce is required to restrict sales "which would make a significant"—and I

repeat, "significant"—"contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States." I think this is what the gentleman from Missouri (Mr. ICHORD) was dwelling on when he spoke previously.

1310

I think this is what the gentleman from Missouri was dwelling on when he previously spoke. It is precisely the Department of Commerce that has nullified the intent of this legislation by continuing to objectively interpret militarily important matters as insignificant.

I would bring to the attention of the Members an internal Carter administration memorandum concerning a computer sale to the Soviet Zil truck plant, which states that a quarter of the 200,000 trucks that Zil produces annually goes to the military, including 100,000 missile launchers. Nonetheless, State and Commerce both support approval, on the grounds that we have already licensed exports for this plant, that the military trucks are basically like civilian trucks anyway, and that 100,000 missile launchers out of a 200,000-vehicle annual production is small. That is according to Juanita Kreps. Two hundred thousand annual production is small? Missile launchers? What kind of rationale is that? At a time when Communist influence is spreading across the globe, at such a time our leadership should be concerned with our own security instead of exempting military equipment in such an offhand manner.

We must tighten this legislation for our own protection and safety.

I see nothing wrong with removing the word "significant" throughout this bill, but, in particular, out of this one section. I think it would clarify the intent of the legislation, which I am sure the gentleman from New York, the gentleman from Missouri, and most Members of this House would support.

I urge support of the amendment.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding.

Mr. Chairman, as I stated before, this is an extremely complicated bill. I do not know whether the removal of the word "significant" would really accomplish anything or not, and I am afraid that it might prohibit the export of any item. What I am concerned about, I would say to the gentleman, is the export of critical military technology. "Significant" as used in the present legislation has always been used. There is some ambiguous language, I would state to the gentleman from New York, where you interchange "major" with "significant." But I see nothing wrong with "significant," as such. I do not quite understand what the gentleman is driving at.

Mr. SOLOMON. If the gentleman would just read that language, I think that one of the problems we have is the fact that the Secretary of Commerce, Juanita Kreps, has been interpreting too many things as not being significant.

I cited the example of 100,000 missile launchers being produced in the Kama River plant.

Mr. ICHORD. I agree with the gentleman on that case. But I wonder whether or not you might with the elimination of the word "significant" prohibit the export of practically every item.

Mr. SOLOMON. If the gentleman will just read the language, it says "* * * which could make * * *"—we strike the word "significant" right there—"* * * which could make a significant contribution to the military potential of any country or combinations of countries which would be detrimental to the national security of the United States."

If it is not going to be detrimental to national security, if we are selling them oil, for instance, or we are selling them other items, which is not going to prove detrimental to the national security of this country, then I do not see where we have a problem; but we do have a problem by leaving the word "significant" in there, because we leave it up to Juanita Kreps to interpret.

Mr. ICHORD. If the gentleman will yield, I do not know whether you could actually administer the law if significant is removed.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

Mr. Chairman, I think the point of the gentleman from Missouri is a very valid one. I think what the gentleman seeks to achieve is something that we have sought to achieve in the entire bill of separating out what is significant and what is critical. If we dilute that in each particular case, we will dilute the significance of what we are trying to achieve in setting up a critical technology list.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the amendment for the reasons suggested by the gentleman from Missouri and my colleague, the gentleman from New York.

I believe that to eliminate the word "significant" would create a great deal of confusion and probably exacerbate the problems of administration which this program has been bedeviled with. As we know, there are great delays in the consideration of licenses. If we eliminate the word "significant" and decide that the purpose is to consider any contribution to military potential whatever, no matter how miniscule, this is going to add enormously to the licensing burden. We are all agreed, those of us who have studied this legislation and have had hearings, that there is a lot of unnecessary paper work that goes on. We want to concentrate, as the gentleman from Missouri (Mr. ICHORD) has said, on militarily critical technologies.

Let me point out further that this word "significant" has been in the Export Administration Act since 1969 and was retained when this legislation was extended in 1974 and 1977. Incidentally, the reference that the gentleman from Missouri has made to the enormous scope of this legislation surprises me a little bit, because the scope is no different from the scope of the legislation when it was extended in 1974 and again in 1977.

So for these reasons I hope that the gentleman's amendment will be omitted. It was not something that we considered in committee. We had long hearings on this, both in subcommittee and full committee. It is something that comes to my attention today for the first time, and I think for the reasons that have been suggested, the amendment should be voted down.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

Mr. Chairman, I think what the gentleman seeks to achieve is, again, what we had hoped to achieve in committee. One aspect of this is that if you clutter the process with all of the various elements that are involved in trying to make a determination, as the gentleman would have us make, then we will never get to the point of really safeguarding the critical technology that we want to protect. Right now one of the most important problems faced by industry is the fact that we are so far behind with the granting of licenses that we are not able to devote sufficient time to protect those critical areas that we need to protect.

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

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I share the concern of the gentleman from New York who has offered this amendment, but, like the gentleman from Missouri and the gentleman from New York, I am afraid that this amendment goes in exactly the wrong direction.

It is vitally necessary that we adopt some legislation, because to fail to do so means there are no controls, which would be an infinitely worse situation than even the passage of this bill in its present form would be to the people who are concerned about some of its provisions.

There is no one, with the exception, perhaps, of the gentleman from Missouri and the gentleman from New York (Mr. WOLFF), who tried harder to tighten this bill up in the subcommittee and in the full committee than I did. I offered some 25 amendments. Some were adopted and others were not. Others were adopted in the full committee by other members of that committee. But it does seem to me that if we take out "significant," particularly in this subsection, that what we are saying is that there can be no export to Communist countries at all, because I think you can make a very good argument that when we export wheat, for example, to Russia we certainly free them up from spending the kind of re-

sources in the growing of wheat that they would have to do otherwise, and that extra effort can go into munitions and technology, and so on. So unless we are prepared—and I certainly am not—to say we shall not export anything to any Communist country, I think we had better turn this amendment down, and we had better pay very close attention to the amendments that will be offered by the gentleman from New York (Mr. WOLFF) and the gentleman from Missouri (Mr. ICHORD). I will be supporting some of those amendments, as I did in committee. I think we ought to zero in on issues of importance and concern, those things that we can do something about and those things that we can control.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SOLOMON).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to section 102? If not, the Clerk will read.

The Clerk read as follows:

POLICY

SEC. 103. (a) Section 3 of the Export Administration Act of 1969 (50 U.S.C. App. 2402) is amended by amending paragraph (2) to read as follows:

"(2) It is the policy of the United States to use export controls to the extent necessary (A) to restrict the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the national security of the United States; (B) to restrict the export of goods and technology where necessary to further significantly the foreign policy of the United States or to fulfill its international responsibilities; and (C) to restrict the export of goods where necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.".

(b) Such section is further amended—

(1) in paragraph (5) by striking out "articles, materials, supplies, or information" and inserting in lieu thereof "goods, technology, or other information";

(2) in paragraph (6) by striking out "articles, materials, or supplies, including technical data or other information," and inserting in lieu thereof "goods, technology, or other information"; and

(3) by adding at the end thereof the following new paragraphs:

"(9) It is the policy of the United States to cooperate with other nations with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribtuion to the military potential of any country or combination of countries, which would prove detrimental to the security of the United States and of those countries with which the United States has defense treaty commitments.

"(10) It is the policy of the United States that export trade by United States citizens be given a high priority and not be controlled except when such controls (A) are essential to achieve fundamental national security, foreign policy, or short supply objectives, (B) will clearly achieve such objectives, and (C) are administered consistent with basic standards of due process. It is also the policy of the United States that such controls shall not be retained unless their efficacy is annually established in detailed reports available to both the Congress and to the public, to the maximum extent consistent with the national security and foreign policy of the United States.".

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 103 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. PEYSER

Mr. PEYSER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEYSER: Page 4, line 20, immediately after "responsibilities" insert ", including to restrict exports to countries which violate the principles of the Monroe Doctrine".

□ 1320

(Mr. PEYSER asked and was given permission to revise and extend his remarks.)

Mr. PEYSER. Mr. Chairman, it is seldom that the House has an opportunity at the time of particular crisis to really reflect and to express an opinion to the President as to how we feel on a specific issue.

At this time, as we all know, the Secretary of State and the President are engaged in efforts to resolve the issue of the Russian troops that are in Cuba today.

What this amendment does, is state that the President, knowing the will of the Congress, would have the right of restricting any trade to the Russians unless a solution is reached on the Russian troops who are presently located in Cuba.

I believe that the Soviets should have to choose between millions of bushels of wheat or the removal of their troops from the Western Hemisphere.

I would also like to suggest that this is a way of saying to the President, that we do not think the Senate should be placed in a position that they are trading off a SALT II agreement in order to get troops out of Cuba. The SALT II agreement has either got to stand or fall on its own and not be an item of trade-offs.

If there are any trade-offs that should be made, let us make them in trade. Let us find out what really is important to the Russians, and let us accept this amendment by overwhelmingly indicating that we simply are giving the authority to the President, letting the President know that the Congress feels that they too are deeply concerned over the Russians being in Cuba today. We want them out.

We want to give him this authorization, which he may use in his negotiations with the Russians, who are located in Cuba today, and with the Russian Government.

Mr. Chairman, this is a simple amendment. It does not dictate anything, but it simply provides an opportunity for the Congress to express its point of view on this issue.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

I would like to ask the gentleman a question. Is it his view that at this time, so long as the Soviets maintain these troops in Cuba, that we should stop all exports to the Soviet Union?

Mr. PEYSER. Not at all, nor does this amendment do that. This amendment merely authorizes the President and states that he has the right, and it is the feeling of the House and letting him know how we voted on this, that we are concerned, if that is the way the House feels, with these Russian troops there; and he ought to have the right of using trade to terminate the arrangement.

Mr. BINGHAM. If the gentleman will yield further, I think this amendment goes much further than that.

This amendment occurs in a section which says:

It is the policy of the United States to use export controls to the extent necessary . . .

Then we go down to:

(b) to the extent necessary to restrict the export of goods and technology where necessary to further significantly the foreign policy of the United States or to fulfill its international responsibilities; including to restrict exports to countries which violate the principles of the Monroe Doctrine.

From what the gentleman has said, it seems to me that he does mean to refer there to the Soviet Union in connection with its maintenance of troops in Cuba. Therefore this, as I read it, would be a statement of policy that all exports to the Soviet Union should be stopped until those troops are withdrawn.

Mr. PEYSER. I appreciate the gentleman's comments. I think, in reading the bill, and I listened to him read it, it says, "where necessary," where the President deems it necessary, and it is true. Even though the amendment does not say the Soviet Union, I am speaking to the situation in Cuba, without question, but it is only where necessary. It does not dictate and say that the country cannot continue trade with the Soviets. It simply says that we are in a position, and we are letting the Congress speak out on an issue that I think we can easily speak out on here and express the concern that the people—certainly my constituents—have expressed that we do something and we let them know we are concerned. That is the reason.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has expired.

(At the request of Mr. BINGHAM and by unanimous consent, Mr. PEYSER was allowed to proceed for 3 additional minutes.)

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I am happy to yield to the gentleman.

Mr. BINGHAM. I think that matter of interpretation is very important. I take his word that is what he means. I take it all he is saying is that in a situation of this kind, the President should consider the possibility of foreign policy controls on exports as one method of pursuing an objective. Is that so?

Mr. PEYSER. I would agree with the gentleman.

Mr. BINGHAM. On the basis of that interpretation, I have no objection to the amendment.

Mr. PEYSER. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I think perhaps the gentleman's amendment could be a little more artfully drawn, although as I sit here I am not able to do that.

As I understand it, there is not a similar provision in the Senate bill, so we will have that opportunity in conference.

I think what the gentleman is saying and the way he is explaining his amendment is very clear that this would only be an added tool for the President in determining whether or not to apply foreign policy controls.

Mr. PEYSER. That is correct.

Mr. LAGOMARSINO. With that understanding, I support the amendment.

Mr. PEYSER. I thank the gentleman.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. PEYSER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: On page 6, line 4, delete the quotation mark and following period at the end thereof, and insert the following new paragraph thereafter:

"(11) It is the policy of the United States to minimize restrictions on the export of agricultural commodities and products.".

(Mr. GLICKMAN asked and was given permission to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Chairman, this is an attempt to conform language I earlier offered and the House accepted in the findings section into the policy section, and basically I think it does put into statutory language what is already existing law, that the United States should try to minimize to the extent feasible restrictions on the export of agriculture commodities and products.

I did utilize the word "minimize" at the suggestion of the gentleman from California (Mr. LAGOMARSINO).

I would ask for the adoption of the amendment.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I am happy to yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

I certainly believe this is the purpose of the bill, and if this adds to making that clear, I am in favor of the amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I am happy to yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I support the gentleman's amendment. Hopefully, the committee will adopt it.

Mr. GLICKMAN. I thank the gentleman.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. GLICKMAN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 103?

If not, the Clerk will read.

The Clerk read as follows:

EXPORT LICENSES; TYPES OF CONTROLS

SEC. 104 (a) The Export Administration Act of 1969 is amended—

(1) by redesignating section 4 as section 7;

(2) by repealing sections 5 and 9;

(3) by redesignating sections 6, 7, 8, 10, 11, 12, 13, 14, and 15 as sections 11, 12, 13, 14, 16, 17, 18, 19, and 20, respectively; and

(4) by redesignating sections 4A and 4B as sections 8 and 9, respectively.

(b) The Export Administration Act of 1969 is amended by adding after section 3 the following new sections:

"EXPORT LICENSES; COMMODITY CONTROL LIST; LIMITATION ON CONTROLLING EXPORTS

"SEC. 4. (a) TYPES OF LICENSES.—The Secretary may, in accordance with the provisions of this Act, issue any of the following export licenses:

"(1) A validated license, which shall be a document issued pursuant to an application by an exporter authorizing a specific export or, under procedures established by the Secretary, a group of exports, to any destination.

"(2) A qualified general license, which shall be a document issued pursuant to an application by the exporter authorizing the export of any destination, without specific application by the exporter for each such export, of a category of goods or technology, under such conditions as may be imposed by the Secretary.

"(3) A general license, which shall be a standing authorization to export, without application by the exporter, a category of goods or technology, subject to such conditions as may be set forth in the license.

"(4) Such other licenses, consistent with this subsection and this Act, as the Secretary considers necessary for the effective and efficient implementation of this Act.

"(b) COMMODITY CONTROL LIST.—The Secretary shall establish and maintain a list (hereinafter in this Act referred to as the 'commodity control list') consisting of any goods or technology subject to export controls under this Act.

"(c) RIGHT OF EXPORT.—No authority or permission to export may be required under this Act, or under any rules or regulations issued under this Act, except to carry out the policies set forth in section 3 of this Act.

"NATIONAL SECURITY CONTROLS

"SEC. 5. (a) AUTHORITY.—(1) In order to carry out the policy set forth in section 3(2)(A) of this Act, the President may, in accordance with the provisions of this section, prohibit or curtail the export of any goods or technology subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of Defense, and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses described in section 4(a) of this Act.

"(2)(A) Whenever the Secretary makes any revision with respect to any goods or technology, or with respect to the countries or destinations, affected by export controls imposed under this subsection, the Secretary shall publish in the Federal Register a notice of such revision and shall specify in such notice that the revision relates to controls imposed under the authority contained in this section.

"(B) Whenever the Secretary denies any export license under this subsection, the Secretary shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this section.

"(b) POLICY TOWARD INDIVIDUAL COUNTRIES.—In administering export controls under this section, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status, but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may consider appropriate. The President shall periodically review United States policy toward individual countries to determine whether such policy is appropriate in light of factors specified in the preceding sentence.

"(c) CONTROL LIST.—(1) The Secretary shall establish and maintain, as part of the commodity control list, a list of all goods and technology subject to export controls under this secttion. Such goods and technology shall be clearly identified as being subject to controls under this section.

"(2) The Secretary of Defense and other appropriate departments and agencies shall identify goods and technology for inclusion on the list referred to in paragraph (1). Those items which the Secretary and the Secretary of Defense concur shall be subject to export controls under this section shall comprise such list. If the Secretary and the Secretary of Defense are unable to concur on such items, the matter shall be referred to the President for resolution.

"(3) The Secretary shall issue regulations providing for continuous review of the list established pursuant to this subsection in order to carry out the policy set forth in section 3(2)(A) and the provisions of this section, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments with or without oral presentation. Such regulations shall further provide that, as art of such review, an assessment be made of the availability from sources outside the United States of goods and technology comparable to those controlled for export from the United States under this section.

"(d) MILITARY CRITICAL TECHNOLOGIES.—(1) The Congress finds that the national interest requires that export controls under this section be focused primarily on military critical technologies, and that export controls under this section be removed insofar as possible from goods the export of which would not transfer military critical technologies to countries to which exports are controlled under this section.

"(2) The Secretary of Defense shall develop a list of military critical technologies. In developing such list, primary emphasis shall be given to—

"(A) arrays of design and manufacturing know-how;

"(B) keystone manufacturing, inspection, and test equipment; and

"(C) goods accompanied by sophisticated operation, application, or maintenance operation, or maintenance know-how,

which are not possessed by countries to which exports are controlled under this section and which, if exported, would permit a major advance in a weapons system of any such country.

"(3) The list referred to in paragraph (2) shall—

"(A) be sufficiently specific to guide the

determinations of any official exercising export licensing responsibilities under this Act; and

"(B) provide for the removal of export controls under this section from goods the export of which would not transfer military critical technology to countries to which exports are controlled under this section, except for goods with intrinsic military utility.

"(4) The list of military critical technologies developed by the Secretary of Defense pursuant to paragraph (2) shall become a part of the commodity control list subject to the provisions of subsection (c) of this section.

"(5) The Secretary of Defense shall report annually to the Congress on actions taken to carry out this subsection.

"(e) EXPORT LICENSES.—(1) The Congress finds that the effectiveness and efficiency of the process of making export licensing determinations under this section is severely hampered by the large volume of validated export license applications required to be submitted under this act. Accordingly, it is the intent of Congress in this subsection to encourage the use of a qualified general license, in lieu of a validated license, to the maximum extent practicable, consistent with the national security of the United States.

"(2) To the maximum extent practicable, consistent with the national security of the United States, the Secretary shall require a validated license under this section for the export of goods or technology only if—

"(A) the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, under the terms of such multilateral agreement, such export requires the specific approval of the parties to such multilateral agreement;

"(B) with respect to such goods or technology, other nations do not possess capabilities comparable to those possessed by the United States; or

"(C) the United States is seeking the agreement of other suppliers to apply comparable controls to such goods or technology and, in the judgment of the Secretary, United States export controls on such goods or technology, by means of such license, are necessary pending the conclusion of such agreement.

"(3) To the maximum extent practicable, consistent with the national security of the United States, the Secretary shall require a qualified general license, in lieu of a validated license, under this section for the export of goods or technology if the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party, but such export does not require the specific approval of the parties to such multilateral agreement.

"(f) FOREIGN AVAILABILITY.—(1) The Secretary, in consultation with appropriate Government agencies and with appropriate technical advisory committees established pursuant to subsection (h) of this section, shall review, on a continuing basis, the availability, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, of any goods or technology the export of which requires a validated license under this section. In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that any such goods or technology are available in fact to such destinations from such sources in sufficient quantity and of sufficient quality so that the requirement of a validated license for the export of such goods or technology is or would be ineffective in achieving the purpose set forth in subsection (a) of this section, the Secretary may not, after the determination is made, require a validated license for the export of such goods or technology during the period of such foreign availability, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination together with a concise statement of its basis, and the estimated economic impact of the decision.

"(2) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a particular country and which meets all other requirements for such an application, if the Secretary determines that such goods or technology will, if the license is denied, be available in fact to such country from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of sufficient quality so that denial of the license would be ineffective in achieving the purpose set forth in subsection (a) of this section, subject to the exception set forth in paragraph (1) of this subsection. In any case in which the Secretary makes a determination of foreign availability under this paragraph with respect to any goods or technology, the Secretary shall determine whether a determination under paragraph (1) with respect to such goods or technology is warranted.

"(3) Whenever the Secretary of State, in consultation with the Secretary, has reason to believe that the availability of any goods or technology from sources outside the United States can be prevented or eliminated by means of negotiations with other countries, the Secretary of State shall undertake such negotiations. The Secretary shall not make any determination under this subsection with respect to such goods or technology until the Secretary of State has had a reasonable amount of time to conclude such negotiations.

"(4) In order to further effectuate the policies set forth in this paragraph, the Secretary shall establish, within the Office of Export Administration of the Department of Commerce, a capability to monitor and gather information with respect to the foreign availability of any goods or technology subject to export controls under this section. The Secretary shall include a detailed statement with respect to actions taken in compliance with the provisions of this paragraph in each report to the Congress made pursuant to section 14 of this Act.

"(g) INDEXING.—In order to ensure that requirements for validated licenses and qualified general licenses are periodically removed as goods or technology subject to such requirements become obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for annual increases in the performance levels of goods or technology subject to any such licensing requirement. Any such goods or technology which no longer meet the performance levels established by the latest such increase shall be removed from the list established pursuant to subsection (c) of this section unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other Government agency objects to such removal and the Secretary determines, on the basis of such objection, that the goods or technology shall not be removed from the list.

"(h) TECHNICAL ADVISORY COMMITTEES.—(1) Upon written request by representatives of a substantial segment of any industry which produces any goods or technology subject to export controls under subsection (a) or being considered for such controls because of their significance to the national security of the United States, the Secretary shall appoint a technical advisory committee for any such goods or technology which the Secretary determines are difficult to evaluate because of questions concerning technical matters, worldwide availability, and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and Government, including the Departments of Commerce, Defense, and State and, in the discretion of the Secretary, other Government departments and agencies. No person serving on any such committee who is a representative of industry shall serve on such committee for more than four consecutive years.

"(2) Technical advisory committees established under paragraph (1) shall advise and assist the Secretary, the Secretary of Defense, and any other department, agency, or official of the Government of the United States to which the President delegates authority under this Act, with respect to actions designed to carry out the policy set forth in section 3(2)(A) of this Act. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. Nothing in this subsection shall prevent the Secretary or the Secretary of Defense from consulting, at any time, with any person representing industry or the general public, regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary, to present evidence to such committees.

"(3) To facilitate the work of the technical advisory committees, the Secretary, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the goods or technology with respect to which that committee furnishes advice.

"(4) Whenever a technical advisory committee certifies to the Secretary that goods or technology with respect to which such committee was appointed have become available in fact, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of sufficient quality so that requiring a validated license for the export of such goods or technology would be ineffective in achieving the purpose set forth in subsection (a), and provides adequate documentation for such certification, in accordance with the procedures established pursuant to subsection (f)(1) of this section, the Secretary shall take steps to verify such availability, and upon such verification shall remove the requirement of a validated license for the export of the goods or technology, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwith-

standing foreign availability, the Secretary shall publish that determination together with a concise statement of its basis, and the estimated economic impact of the decision.

"(i) MULTILATERAL EXPORT CONTROLS.—(1) The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee of the Consultative Group (hereinafter in this subsection referred to as the 'Committee') with a view toward accomplishing the following objectives:

"(A) Agreement to publish the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such agreement, and all changes thereto.

"(B) Agreement to hold periodic meetings of such governments with high-level representation from such governments, for the purpose of discussing export control policy issues and issuing policy guidance to the Committee.

"(C) Agreement to reduce the scope of the export controls imposed by agreement of the Committee to a level acceptable to and enforceable by all governments participating in the Committee.

"(D) Agreement on more effective procedures for enforcing the export controls agreed to pursuant to subparagraph (C).

"(2) The President shall include, in each annual report required by section 14 of this Act, a detailed report on the progress of the negotiations required by paragraph (1), until such negotiations are concluded.

"(3) In any case in which goods or technology controlled for export by agreement of the Committee are exported from the United States to countries which participate in the Committee, no condition shall be imposed by the United States with respect to the further export of such goods or technology from such countries.

"(j) COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES.—(1) Any United States person who, for commercial purposes, enters into any agreement with any agency of the government of a country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement (to which the United States and such country are parties) calling for the encouragement of technical cooperation, and which agreement is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report such agreement to the Secretary.

"(2) The provisions of paragraph (1) shall not apply to colleges, universities, or other educational institutions.

"(k) NEGOTIATIONS WITH OTHER COUNTRIES.—The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with other countries regarding their cooperation in restricting the export of goods and technology in order to carry out the policy set forth in section 3(9) of this Act, as authorized by subsection (a) of this section, including negotiations with respect to which goods and technology should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.

"FOREIGN POLICY CONTROLS

"SEC. 6. (a) AUTHORITY.—(1) In order to effectuate the policy set forth in paragraph (2)(B), (7), or (8) of section 3 of this Act, the President may prohibit or curtail the exportation of any goods, technology, or other information subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, to the extent necessary to further significantly the foreign policy of the United States or to fulfill its international responsibilities. The authority granted by this subsection shall be exercised by the Secretary, in consultation with the Secretary of State and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses issued by the Secretary.

"(2)(A) Whenever the Secretary makes any revision with respect to any goods, technology, or other information, or with respect to the countries or destination affected by export controls imposed under this subsection, the Secretary shall publish in the Federal Register a notice of such revision, and shall specify in the notice that the revision relates to control imposed under the authority contained in this subsection.

"(B) Whenever the Secretary denies any export license under this subsection, the Secretary shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this subsection, and the reasons for such denial, with reference to the criteria set forth in subsection (b) of this section.

"(3) In accordance with the provisions of section 10 of this Act, the Secretary of State shall have the right to review any export license application under this section that the Secretary requests to review, and to appeal to the President any decision of the Secretary with respect to such license application.

"(b) CRITERIA.—In determining whether to impose export controls under this section, the President, acting through the Secretary and the Secretary of State, shall consider—

"(1) the likely effectiveness of the proposed controls in achieving their purpose, including the availability from other countries of any goods or technology comparable to goods or technology proposed for export controls under this section;

"(2) the compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

"(3) the likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, and on individual United States companies and their employees and communities, including the effects of the controls on existing contracts; and

"(4) the ability of the United States Government to enforce the proposed controls effectively.

"(c) CONSULTATION WITH INDUSTRY.—The Secretary, before imposing export controls under this section, shall consult with such affected United States industries as the Secretary considers appropriate, with respect to criteria set forth in paragraphs (1) and (3) of subsection (b) and such other matters as the Secretary considers appropriate.

"(d) ALTERNATIVE MEANS.—Before resorting to the imposition of export controls under this section, the President shall determine that reasonable efforts have been made to achieve the purposes of the controls through negotiations or other alternative means.

"(e) NOTIFICATION TO CONGRESS.—The President in every possible instance shall consult with the Congress before imposing any export control under this section. Whenever the President imposes any export control with respect to any country under this section, he shall immediately notify the Congress of the imposition of such export control, and shall submit with such notification a report specifying—

"(1) the reasons for the control, the purposes the control is designed to achieve, and the conditions under which the control will be removed;

"(2) those considerations of the criteria set forth in subsection (b) which led him to determine that on balance such export control would further the foreign policy interests of the United States or fulfill its international responsibilities, including those criteria which were determined to be inapplicable;

"(3) the nature and results of consultations with industry undertaken pursuant to subsection (c); and

"(4) the nature and results of any alternative means attempted under subsection (d), or the reasons for imposing the control without attempting any such alternative means.

To the extent necessary to further the effectiveness of such export control, portions of such report may be submitted on a classified basis, and shall be subject to the provisions of section 12(c) of this Act. If the Congress, within sixty days after the receipt of such notification, adopts a concurrent resolution disapproving such export control, then such export control shall cease to be effective upon the adoption of the resolution. In the computation of such sixty-day period, there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain or because of an adjournment of the Congress sine die. The procedures set forth in section 130 of the Atomic Energy Act of 1954 shall apply to any concurrent resolution referred to in this subsection, except that any such resolution shall be reported by the appropriate committees of both Houses of Congress not later than forty-five days after the receipt of the notification submitted pursuant to this subsection.

"(f) EXCLUSION FOR FOOD AND MEDICINE.—This section does not authorize export controls on food, medicine, or medical supplies. It is the intent of Congress that the President not impose export controls under this section on any goods or technology if he determines that the principal effect of the export of such goods or technology would be to help meet basic human needs. This subsection shall not be construed to prohibit the President from imposing restrictions on the export of food, medicine, or medical supplies, under the International Emergency Economic Powers Act.

"(g) TRADE EMBARGOES.—This section does not authorize the imposition by the United States of a total trade embargo on any country. This subsection shall not be construed to prohibit the President from imposing a trade embargo under the International Emergency Economic Powers Act.

"(h) FOREIGN AVAILABILITY.—In applying export controls under this section, the President shall take all feasible steps to initiate and conclude negotiations with appropriate foreign governments for the purpose of securing the cooperation of such foreign governments in controlling the export to countries and consignees to which the United States export controls apply of any goods or technology comparable to goods or technology controlled for export under this section.

"(i) INTERNATIONAL OBLIGATIONS.—The limitations contained in subsections (b), (c), (d), (f), (g), and (h) shall not apply in any case in which the President exercises the authority contained in this section to impose export controls, or to approve or deny export license applications, in order to fulfill commitments of the United States pursuant to treaties to which the United States is a party, or to comply with decisions or other actions of international organizations of which the United States is a member.

"(j) EXISTING CONTROLS.—The provisions of subsections (f) and (g) shall not apply

to any export control on food or medicine or to any trade embargo in effect on the effective date of the Export Administration Act Amendments of 1979.

"(k) CONTROL LIST.—The Secretary shall establish and maintain, as part of the commodity control list, a list of any goods or technology subject to export controls under this section, and the countries to which such controls apply. Such goods or technology shall be clearly identified as subject to controls under this section. Such list shall consist of goods and technology identified by the Secretary of State, with the concurrence of the Secretary. If the Secretary and the Secretary of State are unable to agree on the list, the matter shall be referred to the President for resolution. The Secretary shall issue regulations providing for periodic revision of such list for the purpose of eliminating export controls which are no longer necessary to fulfill the purpose set forth in subsection (a) of this section or are no longer advisable under the criteria set forth in subsection (b) of this section.

(c) The Export Administration Act of 1969 is amended by inserting after section 9, as redesignated by subsection (a) of this section, the following new section:

"PROCEDURES FOR PROCESSING VALIDATED AND QUALIFIED GENERAL LICENSE APPLICATIONS

"SEC. 10. (a) GENERAL RESPONSIBILITY OF THE SECRETARY; DESIGNATED OFFICIAL.—(1) All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this section for objections by other agencies. The Secretary may not delegate the authority to deny any such application to any official holding a rank lower than Deputy Assistant Secretary.

"(2) For purposes of this section, the term 'designated official' means an official designated by the Secretary to carry out functions under this Act with respect to the administration of export licenses.

"(b) APPLICATIONS TO BE REVIEWED BY OTHER AGENCIES.—(1) It is the intent of Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other Government agency.

"(2) The head of any Government agency concerned with export controls may, within ninety days after the effective date of this section, and periodically thereafter, in consultation with the Secretary, determine the specific types and categories of license applications to be reviewed by such agency before the Secretary approves or disapproves any such application. The Secretary shall, in accordance with the provisions of this section, submit to the agency involved any license application of any such type or category.

"(c) INITIAL SCREENING.—Within ten days after the date on which any export license application is received, the designated official shall—

"(1) send to the applicant an acknowledgment of the receipt of the application and the date of the receipt;

"(2) submit to the applicant a written description of the procedures required by this section, the responsibilities of the Secretary and of other agencies with respect to the application, and the rights of the applicant;

"(3) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this section; and

"(4) determine whether it is necessary to submit the application to any other agency and, if such submission is determined to be necessary, inform the applicant of the agency or agencies to which the application will be referred.

"(d) ACTION BY THE DESIGNATED OFFICIAL.—Within thirty days after the date on which an export license application is received, the designated official shall—

"(1) approve or disapprove the application and formally issue or deny the license, as the case may be; or

"(2)(A) submit the application, together with all necessary analysis and recommendations of the Department of Commerce, concurrently to any other agencies pursuant to subsection (b)(2); and

"(B) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation submitted to such other agency with respect to such application.

"(e) ACTION BY OTHER AGENCIES.—(1) Any agency to which an application is submitted pursuant to subsection (d)(2)(A) shall submit to the designated official, within thirty days after the end of the thirty-day period referred to in subsection (d), any recommendations with respect to such application. Except as provided in paragraph (2), any such agency which does not so submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the designated official to have no objection to the approval of such application.

"(2) If the head or acting head of any such agency notifies the Secretary before the expiration of the time period provided in paragraph (1) for submission of its recommendations that more time is required for review of the application by such agency, the agency shall have an additional thirty-day period to submit its recommendations to the designated official. If such agency does not so submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the designated official to have no objection to the approval of the application.

"(f) DETERMINATION BY THE DESIGNATED OFFICIAL.—(1) The designated official shall take into account any recommendation of an agency submitted with respect to an application to the designated official pursuant to subsection (e), and, within twenty days after the end of the appropriate period specified in subsection (e) for submission of such agency recommendations, shall—

"(A) approve or disapprove the application and inform such agency of such approval or disapproval; or

"(B) if unable to reach a decision with respect to the application, refer the application to the Secretary and notify such agency and the applicant of such referral.

"(2) The designated official shall formally issue or deny the license, as the case may be, not more than ten days after such official makes a determination under paragraph (1)(A), unless any agency which submitted a recommendation to the designated official pursuant to subsection (e) with respect to the license application, notifies such official, within such ten-day period, that it objects to the determination of the designated official.

"(3) The designated official shall fully inform the applicant, to the maximum extent consistent with the national security and foreign policy of the United States—

"(A) within five days after a denial of the application, of the statutory basis for the denial, the policies in section 3 of this Act that formed the basis of the denial, the specific circumstances that led to the denial, and the applicant's right to appeal the denial to the Secretary under subsection (k) of this section; or

"(B) in the case of a referral to the Secretary under paragraph (1)(B) or an objection by an agency under paragraph (2), of the specific questions raised and any negative considerations or recommendations made by an agency, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommenadtions.

"(g) ACTION BY THE SECRETARY.—(1)(A) In the case of an objection of an agency of which the designated official is notified under subsection (f)(2), the designated official shall refer the application to the Secretary. The Secretary shall consult with the head of such agency, and, within twenty days after such notification, shall approve or disapprove the license application and immediately inform such agency head of such approval or disapproval.

"(B) In the case of a referral to the Secretary under subsection (f)(1)(B), the Secretary shall, within twenty days after notification of the referral is transmitted pursuant to such subsection, approve or disapprove the application and immediately inform any agency which submitted recommendations with respect to the application, of such approval or disapproval.

"(2) The Secretary shall formally issue or deny the license, as the case may be, within ten days after approving or disapproving an application under paragraph (1), unless the head of the agency referred to in paragraph (1)(A), or the head of an agency described in paragraph (1)(B), as the case may be, notifies the Secretary of his or her objection to the approval or disapproval.

"(3) The Secretary shall immediately and fully inform the applicant, in accordance with subsection (f)(3), of any action taken under paragraph (1) or (2) of this subsection.

"(4) The Secretary may not delegate the authority to carry out the actions required by this subsection to any official holding a rank lower than Deputy Assistant Secretary.

"(h) ACTION BY THE PRESIDENT.—In the case of notification by an agency head, under subsection (g)(2), of an objection to the Secretary's decision with respect to an application, the Secretary shall immediately refer the application to the President. Within thirty days after such notification, the President shall approve or disapprove the application and the Secretary shall immediately issue or deny the license, in accordance with the President's decision. In any case in which the President does not approve or disapprove the application within such thirty-day period, the decision of the Secretary shall be final and the Secretary shall immediately issue or deny the license in accordance with the Secretary's decision.

"(i) SPECIAL PROCEDURES FOR SECRETARY OF DEFENSE.—(1) Notwithstanding any other provision of this section, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

"(2) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the export control office to which licensing requests are made, the types and categories of transactions which should be reviewed by him in order to make a determination referred to in paragraph (1). Whenever a license or other authority is requested for the export to any country to which exports are controlled for national security purposes of goods or technology within any such type or category, the appropriate export control office or agency to which such request is made shall notify the Secretary of Defense of such request, and such office may not issue any license or other authority pursuant to the request before the

expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this paragraph and, not later than thirty days after notification of the request, shall—

"(A) recommend to the President that he disapprove any request for the export of any goods or technology to any such country if he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

"(B) notify such office or agency that he will interpose no objection if appropriate conditions designed to achieve the purposes of this Act are imposed; or

"(C) indicate that he does not intend to interpose an objection to the export of such goods or technology.

If the President notifies such office or agency, within thirty days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country.

"(3) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this subsection, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this section.

"(j) MULTILATERAL REVIEW.—(1) In any case in which an application, which has been finally approved under subsection (d), (f), (g), (h), or (i) of this section, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such subsections, but the Secretary shall notify the applicant of the approval (and the date of such approval) of the application by the United States Government, subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review. If such multilateral review has not resulted in a determination with respect to the application within sixty days after such date, the Secretary's approval of the application shall be final and the license shall be issued. The Secretary shall institute such procedures for preparation of necessary documentation before final approval of the application by the United States Government as the Secretary considers necessary to implement the provisions of this paragraph.

"(2) In any case in which the approval of the United States Government is sought by a foreign government for the export of goods or technology pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the Secretary of State, after consulting with other appropriate United States Government agencies, shall, within sixty days after the date on which the request for such approval is made, make a determination with respect to the request for approval. Any such other agency which does not submit a recommendation to the Secretary of State before the end of such sixty-day period shall be deemed by the Secretary of State to have no objection to the request for United States Government approval. The Secretary of State may not delegate the authority to disapprove a request for United States Government approval under this paragraph to any official of the Department of State holding a rank lower than Deputy Assistant Secretary.

"(k) EXTENSIONS.—If the Secretary determines that a particular application or set of applications is of exceptional importance and complexity, and that additional time is required for negotiations to modify the application or applications, the Secretary may extend any time period prescribed in this section. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor.

"(l) APPEAL AND COURT ACTION.—(1) The Secretary shall establish appropriate procedures for any applicant to appeal to the Secretary the denial of an expert license application of the applicant.

"(2) In any case in which any action prescribed in this section is not taken on a license application within the time periods established by this section (except in the case of a time period etxended under subsection (k) of which the applicant is notified), the applicant may file a petition with the Secretary requesting compliance with the requirements of this section. When such petition is filed, the Secretary shall take immediate steps to correct the situation giving rise to the petition and shall immediately notify the applicant of such steps.

"(3) If, within thirty days after petition is filed under paragraph (2), the processing of the application has not been brought into conformity with the requirements of this section, or, if the application has been brought into conformity with such requirements, the Secretary has not so notified the applicant, the applicant may bring an action in an appropriate United States district court for a restraining order, a temporary or permanent injunction, or other appropriate relief, to require compliance with the requirements of this section. The United States district courts shall have jurisdiction to provide such relief as appropriate.

"(m) RECORDS.—The Secretary and any agency to which any application is referred under this section shall keep accurate records with respect to all applications considered by the Secretary or by any such agency.".

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 104 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLFF: Page 15, insert the following after line 13, and redesignate subsequent paragraphs accordingly:

"(3) If, in any case in which the President makes a determination under paragraph (1) or (2) of this subsection with respect to national security, the good or technology concerned is critical to United States national security and, if available to an adversary country, would permit a significant contribution to the military potential of that country, the President shall direct the Secretary of State to enter into negotiations with the appropriate government or governments in order to eliminate foreign availability of such good or technology.

Page 15, line 20, strike out "under" and insert in lieu thereof "of foreign availability under paragraph (1) or (2) of".

□ 1330

Mr. WOLFF (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

(Mr. WOLFF asked and was given permission to revise and extend his remarks.)

Mr. WOLFF. Mr. Chairman, I believe that this amendment offers a constructive addition to the foreign availability section of this bill, which was so carefully drafted by my colleague from New York (Mr. BINGHAM).

As written, the foreign availability section provides that the Secretary of State undertake negotiations to eliminate foreign availability of items to which the United States applies export controls, if he has reason to believe that such negotiations can be successful.

The subsection also states that validated export licenses should not be applied if foreign availability exists, unless the President determines that export controls should be maintained for national security purposes, despite foreign availability.

My amendment seeks to add the next logical step to this process. That is, if the President decides that export controls must be maintained despite the fact that the item is sold in another country, and the President feels that the item concerned is critical to U.S. national security, then the President should direct the Secretary of State to negotiate to eliminate that foreign availability. If the item concerned is important to our national security, the President will be mandated to try to keep controls on it, and secure the cooperation of another nation or nations producing the item in question. In this way, initiation of negotiations in this step of the process will depend upon the importance of the item, and not the judgment of potential success before negotiations begin.

If such negotiations fail to secure cooperation from the nation also producing the item, then of course the President can take any steps he feels are necessary to try to encourage cooperation, based upon the importance of the item to our security and military systems.

I believe that this amendment fits in nicely with the provisions already established in this subsection. It also relates very well to the "military critical technologies" section, which mandates the Secretary of Defense to complete the list of technologies and goods that are critical to our national security. Our export control policy will emphasize controls on commodities that are truly important to our national defense and security, and reflect the degree of importance of those items.

Mr. Chairman, I believe that this amendment is simply a logical extension of the provisions as drafted. I urge adoption of my amendment.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I am happy to yield to the gentleman.

Mr. BINGHAM. I thank the gentleman for yielding.

My colleague from New York has already made great contributions to this bill and I think he, in proposing this amendment, is making a further contribution.

We have discussed the language and he has graciously accepted some sug-

gestions we made in terms of clarifying the language. I am happy to say that I am supporting the amendment.

Mr. WOLFF. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I am happy to yield.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

With the language in the bill the administration has to believe negotiations can eliminate foreign availability before it even has to undertake such negotiations, so the administration could, say that foreign availability cannot be eliminated and no effort would be necessary to try to eliminate it.

With the gentleman's amendment, negotiations must be attempted whether there is reason to believe foreign availability can be eliminated or not, and at least in this way an effort will be made to try to find out and to try to eliminate it no matter what.

I called attention to this problem in the subcommittee; the full committee went part of the way. I support the gentleman's amendment because I think it removes a very serious flaw in the legislation.

Mr. WOLFF. I thank the gentleman.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I am happy to yield.

Mr. ICHORD. I want to commend the gentleman in the well for offering this amendment. I think it is a very important amendment. As the gentleman stated, if we are able to mandate the establishment of a critical military technology list it will really help in the administration of this act.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WOLFF).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLFF: Page 15, insert the following after line 13 and redesignate subsequent paragraphs accordingly:

"(3) With respect to export controls imposed under this section, any determination of foreign availability which is the basis of a decision to grant a license for, or to remove a control on, the export of a good or technology, shall be made in writing and shall be supported by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability.

Mr. WOLFF (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

(Mr. WOLFF asked and was given permission to revise and extend his remarks.)

Mr. WOLFF. Mr. Chairman, this amendment provides that, in making a finding of foreign availability under this section, that reliable evidence be used. The Commerce Department may not make such a finding, and thus decontrol the article, simply because the company making the application for an export license says that foreign availability exists.

This amendment was passed in the other body on Saturday, July 21 by voice vote. It was offered by Senator MOYNIHAN for Senator JACKSON. The amendment, as I propose it today, is in the form as it was amended by Senator STEVENSON. Administration representatives monitoring the debate had no objection to this amendment.

This subsection contains important and valuable new procedures for decontrolling commodities because those items are available for export in foreign countries. I think that these procedures will be very helpful to business, in that businesses will be free to compete in international markets when an item is truly available, unless there is some extraordinary national security control placed upon the item. In light of this new emphisis placed on foreign availability, it is essential that reliable evidence be received to determine whether a product of comparable quality and produced in sufficient quantity exists, and that decontrol of the item should occur. If reliabile evidence is not presented, such decontrol because of foreign availability could lead to a signficant loophole in our export control process.

In the past the procedures on foreign availability have been inadequate, frustrating to business, and did not serve our export control policy well. A GAO report of this year, entitled "Export Controls: Need to Clarify Policy and Simplify Administration," was extremely critical of U.S. foreign availability considerations in the export licensing process. The report strongly criticized the lack of a standard of comparing goods available in foreign countries with proposed exports here. The report also found serious fault with the fact that no one really seemed to be in charge of developing this standard.

The legislation before us will go far in solving the enormous problems with foreign availability review that the GAO found. I believe that this amendment will insure that these constructive improvements will not permit any unwanted loopholes in the law.

I believe that this legislation, on the whole, is sending a strong signal to the business community that the U.S. Government wants to improve its performance on foreign availability, consistent with protecting our national security. As a former businessman myself, I know that business would not want to sell an item that is really damaging to our national security, if it got into the wrong hands. Therefore, I view this amendment as a logical addition to the improved foreign availability procedures, and an addition that will add to the intent of this section.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I am prepared to go along with the amendment. But I would like to say that I do not quite agree with the gentleman's characterization of the procedures we have been following. As a matter of fact, I think the amendment codifies the procedures that have been followed in the administration of the Export Administration Act.

We have had a number of cases brought before our committee where the authorities were too slow to find foreign availability. In some cases they eventually agreed with the company that there was foreign availability, but by that time it was so late that the exporters had lost the business.

We had that in a case that I brought to the attention of the House, the Cyril Bath case, where the French were selling a particular metal forming machine. Cyril Bath was able to enter into a contract to sell one such machine to the Soviet Union. They were held up for so long because of discussions and debates as to whether the French, in fact, were selling those machines. The French denied it. The company submitted evidence, and eventually the administration went along with that.

We have never, in the course of our discussions and hearings in the committee, been told of a case where foreign availability was found by the administration and should not have been found. In other words, the fault in the administration of the act, as far as we have been able to observe it, has been in the other direction, that they were too reluctant to find foreign availability. This meant the loss of business to American companies.

But since I believe this amendment requires sensible procedures, since these are the procedures, as I understand it, essentially now being followed, I have no objection to the amendment.

Mr. WOLFF. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I am happy to yield to the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, I think the gentleman's amendment, like his previous one, tightens up the definition of foreign availability, because we must realize that if a technology is available from a foreign source, then our controls can, in effect, be thrown out the window. So it is a very, very important issue and I think that certainly reliable evidence should be produced to justify such a finding. I support the amendment.

□ 1340

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WOLFF).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLFF: Page 16, insert the following after line 7:

"(5) Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, shall, consistent with the protection of intelligence sources and methods, furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration, and such Office, upon request or where appropriate, shall furnish to such departments and agencies the information it gathers and receives concerning foreign availability.

Mr. WOLFF (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

(Mr. WOLFF asked and was given permission to revise and extend his remarks.)

Mr. WOLFF. Mr. Chairman, this amendment would insure that adequate intelligence information is given to the Office of Export Administration in the Commerce Department concerning foreign availability of goods subject to export controls.

This amendment is important and necessary for two reasons. First it is clear that foreign availability was not given adequate attention in the past. A GAO report of March 1, 1979, specifically criticized the consideration of foreign availability in granting export licenses, particularly because no one was in charge of "developing and applying a standard for comparability." In other words, there is no criterion for judging whether an item produced in another country is of comparable quality or produced in sufficient quantity to warrant a finding of foreign availability, and thus decontrol the item. Insuring that the Office of Export Administration and the other departments having input into the licensing process, receive adequate intelligence information will help OEA determine correctly whether a good is truly comparable and a finding of foreign availability should be made.

Also, this legislation strengthens the provisions which decontrol items based on foreign availability. I think this will be a real step forward for the business community, which has been frustrated by the lack of a good foreign availability policy. However, as foreign availability will be given more consideration, we must insure that the OEA and other agencies are given all the necessary information to make the proper decision.

This amendment was offered by Senators JACKSON and BAYH in the other body, and amended by Senator STEVENSON. I am offering this amendment in the same form in which it passed, by voice vote, in the other body. This amendment represents a constructive addition to this subsection and I urge its adoption.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to my colleague from New York.

Mr. BINGHAM. Mr. Chairman, I am happy to concur not only, in this case, with the amendment, but with what the gentleman said about it.

Mr. WOLFF. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding. On behalf of the minority I accept the amendment. I think it merely clarifies what "foreign availability" means by making sure that, in fact, it is foreign availability.

Mr. WOLFF. I thank the gentleman.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I would like the attention of the gentleman from New York (Mr. BINGHAM). I believe the amendment offered by the gentleman from New York (Mr. WOLFF) clears up one of the questions that I had about section 4, and I think we ought to be clear that we establish a record because we could be setting up another intelligence-gathering operation within the Department of Commerce if we are not very careful. I read the language now in the bill which the gentleman's amendment does bear upon, beginning at the bottom of page 15:

"(4) In order to further effectuate the policies set forth in this paragraph, the Secretary shall establish, within the Office of Export Administration of the Department of Commerce, a capability to monitor and gather information with respect to the foreign availability of any goods or technology subject to export controls under this section.

Now, anyone who knows anything about critical military technology knows that this is a day-to-day intelligence-gathering operation. We have got to find out what is the level of technology of the potential adversary. We have got to know about our own level of technology. We have got to know about the level of technology of our allies, and this language standing alone, anyway, could justify the establishment of a separate intelligence unit in the Department of Commerce. I do not think this body wants to do that.

I would ask the gentleman from New York, is the legislative history clear that we are not establishing an intelligence unit within the Department of Commerce?

Mr. BINGHAM. If the gentleman will yield, I think that is correct, and the amendment of the gentleman from New York (Mr. WOLFF) I think makes that doubly clear, because it adds the fact that the intelligence agencies and others are to share information in this important field.

Mr. WOLFF. That basically is the purpose of this amendment, to make the intelligence community responsible.

Mr. ICHORD. In other words, the intelligence community will give this information to the Department of Commerce, and the Department of Commerce is not authorized to set up a new, separate intelligence unit itself?

Mr. WOLFF. As far as I am concerned, that is the purpose of this legislation.

Mr. ICHORD. I commend the gentleman for offering the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WOLFF).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLFF: Page 15, line 12, insert "of foreign availability" after "determination".

(Mr. WOLFF asked and was given permission to revise and extend his remarks.)

Mr. WOLFF. Mr. Chairman, this is simply a technical amendment which corrects a problem I discovered in drafting my other amendments to the foreign availability section of the bill. I believe that this difficulty came about in the process of the various committee and subcommittee markups.

In paragraph f(1) the bill says that the Secretary of Commerce may not require a validated license if an item is available in another country, "unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States." Then in paragraph (2) of this subsection referring to foreign availability determinations, the bill states "* * * the Secretary shall determine whether a determination under paragraph (1) is warranted."

This determination by the Secretary in paragraph (2) could be construed to mean that the Secretary shall determine whether a determination by the President in paragraph (1) is warranted.

Obviously, this is an unintentional result of the amending process, and clearly would not be used by any Secretary. However, in the interests of correcting this anomaly, and having the law read properly, I have offered this amendment.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I will be happy to yield.

Mr. BINGHAM. Again, the gentleman from New York has made a definite improvement in clarifying the intent of the language. I had difficulty reading that sentence myself as I reread it over the weekend, and I think this amendment clarifies the intent.

Mr. WOLFF. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, on behalf of the minority I accept the amendment.

Mr. WOLFF. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WOLFF).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLFF: Page 20, strike out line 21 and all that follows through page 21, line 2.

(Mr. WOLFF asked and was given permission to revise and extend his remarks.)

Mr. WOLFF. Mr. Chairman, this amendment deletes the section in the bill which prohibits the United States from attaching any condition onto the reexport of goods that the United States has exported to any one of our COCOM allies.

I sympathize with the intent of my colleague from New York when he included this provision in his legislation. He points out that our COCOM allies, by participating in the Coordinating Committee, already have controls on the items to which we attach reexport conditions. Such conditions have irritated our allies in the past. In addition, our reexport controls have not always been effective.

However, while I agree with the gentleman that reexport controls are less than desirable, I do not believe that we should prohibit ourselves from utilizing them if we feel it is necessary. I feel that eliminating the possibility of using reexport controls could create an enormous loophole through which third country transfers could legally be made.

In addition, our COCOM allies do not always agree with our assessment of the need for control on some items. COCOM does not protect technical data as much as this Nation would prefer. Also, our COCOM allies do not always share our foreign policy objectives either. Where we might be very concerned about trade with certain Eastern bloc countries, our COCOM allies might view such trade with more enthusiasm.

I am personally very concerned over other foreign policy issues where this country might strenuously disagree with one of our COCOM allies on the reexport of a highly sensitive item to a country known to be aiding terrorists, or actively seeking to scuttle our foreign policy objectives in the Middle East, such as Libya for instance.

Finally, the Defense Department, in speaking for the entire administration had voiced concern over this section in testimony by Assistant Secretary, Dr. Ellen Frost, before the House Foreign Affairs Committee. Dr. Frost called reexport controls a "necessary evil," and maintained that, unfortunately, their use should not be prohibited at this time. The administration agrees that these controls should be used sparingly, and only when necessary of effective.

I feel very strongly about this issue. While I think that reexport controls should not be used excessively, I believe it is necessary to leave our options open at the present time to apply them if they are needed. I urge the adoption of my amendment.

□ 1350

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I would be happy to yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

This is a case where the same amendment was offered in the Committee on Foreign Affairs and I opposed it, and others opposed it, and it was defeated in the committee. Since then we have had occasion at the instance of my friend, the gentleman from New York (Mr. WOLFF), and also because of the interest of the gentleman from Missouri (Mr. ICHORD), to reexamine the whole proposition. There is something to be said on both sides.

One thing that should be pointed out, and that the committee should realize, is that no other country requires this type of second-degree controls, and so a part of the difficulty has been that we tend to irritate our COCOM partners by this dual procedure. I might add that the GAO in its study of export administration recommended that dual licensing be abandoned, and concluded that it would entail no diminution of control. On the other hand, on reexamination of the matter I have decided that on balance it probably is best to retain the dual licensing authority. The administration has taken that position all along, as the gentleman from New York (Mr. WOLFF) has just stated. It is true that there are certain items that we would not have the right to veto in COCOM if they were to be exported, and so on balance, and in consideration of all the major efforts that the gentleman has made in his contributions to this legislation, I recommend that the committee go along with the amendment.

Mr. WOLFF. I thank the gentleman.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I will be happy to yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding.

Again I want to thank the gentleman from New York (Mr. WOLFF) for what I consider to be the great service that he has rendered this body and rendered his country as a leader in perfecting this measure and as an author of H.R. 3216, taking a real leadership position in protecting the critical military technology of this country. I was quite concerned about the provision which the gentleman strikes with his amendment.

The CHAIRMAN (Mr. DANIELSON). The time of the gentleman from New York (Mr. WOLFF) has expired.

(At the request of Mr. ICHORD, and by unanimous consent, Mr. WOLFF was allowed to proceed for 2 additional minutes.)

Mr. ICHORD. I thought it was a loophole through which we could have driven a T-72 tank. For example, an international computer company here in the United States—and computer technology is one of the places where we have a tremendous lead over potential adversaries—could have transferred that computer technology to one of its subsidiaries in a NATO country that has rather weak controls, and then all controls whatsoever would have been lost over the computer technology which is very important to the military capability of the United States.

The Department of Commerce, the gentleman from New York (Mr. BINGHAM) stated, is in favor of this amendment, too, and I commend the gentleman from New York (Mr. WOLFF) for not only the leadership he has exerted but for his persuasive ability in persuading the administration and the gentleman from New York to accept this amendment.

Mr. WOLFF. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I will be happy to yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I want to commend the gentleman in the well not only for offering the amendment but also for being so persuasive. I offered exactly the same amendment in committee and I did not fare as well as I think the gentleman is going to do here this afternoon.

Mr. WOLFF. It must be because I have a neck brace on.

Mr. LAGOMARSINO. As the gentleman said; several others have also mentioned this: The Department of Defense is strongly in support of this amendment. I believe I am not overstating the case when I say they consider this to be one of the most important amendments that will be considered and one they think will be most vital.

Eliminating reexport controls by the United States on technology transferred to COCOM countries provides a small but significant loophole for retransfer of technology to destinations that might prove detrimental to the national security of the United States. While there is general agreement on what should be controlled for export purposes, certain areas like technical data are exported by COCOM members without submitting those applications to COCOM.

The argument is made that we should not require dual reexport licensing along with COCOM, but we have no choice when there are areas where COCOM members do not require licensing.

I think until we have complete agreement on the types of controls to be reviewed by COCOM, we cannot rely on COCOM procedures to protect vital technology and technical data.

As I say, I commend the gentleman for his amendment and on behalf of the minority I accept it.

Mr. WOLFF. I thank the gentleman.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from California.

Mr. DORNAN. I thank the gentleman for yielding.

I just want to enthusiastically get in line here to commend my chairman of the Narcotics Committee, the gentleman in the well (Mr. WOLFF), and associate myself totally with the remarks of the distinguished gentleman from Missouri (Mr. ICHORD) and my colleague, the gentleman from California (Mr. LAGOMARSINO). As the amendment process goes along today, I want to emphasize what both of these colleagues have said, and what the gentleman in the well has said, so eloquently, that al-

though this type of bill does not garner as much press attention as we would hope, we know we are dealing here with one of the most significant bills we can approach in the 96th Congress.

Mr. WOLFF. I thank the gentleman for his contribution.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

I want to commend the gentleman for his proposal. I certainly urge my colleagues to support the proposal. I think it is something that is extremely important for our own national security, and I urge our colleagues to vote in favor of the amendment.

● Mr. WOLFF. Mr. Chairman, I intended to offer two additional amendments that constitute a bill which I introduced on July 17, H.R. 4835. This proposal would place wheat and wheat flour under validated export licensing control, and charge export licensing fees on all such exports, except to developing countries. The fees would raise the price of wheat on international markets. The fees collected would be rebated, one-third to the farmers, one-third applied to reductions on Federal taxes on gasoline and heating oil; and the balance to help fund a program to develop alternate sources of energy.

The second amendment expresses the sense of the Congress that export controls should be imposed on nations engaging in inequitable trade practices on prices or supply of goods vital to our economy, such as petroleum. Thus the amendment urges the Commerce Department to apply controls on goods or technologies, other than food products, if such a policy appears to be an effective way to use some economic leverage.

The intent of these amendments, and my bill, is to try to use our economic leverage, where we have leverage, to secure the cooperation of nations which seem to be engaging in an economic warfare against us.

I do not intend for these amendments to commence counterproductive retaliatory moves. I do want to see the United States use any leverage that we have to fight the kind of economic blackmail to which OPEC countries have subjected this country.

By this proposal I am not suggesting that we can sidestep our need to conserve our energy resources, or develop new energy sources. This is of vital importance, and should be our highest national priority.

What I am getting at here is an effort to try to utilize our own economic leverage to meet this challenge. We are no longer the economic giant who can impose its will on other countries through economic sanctions. We do not control the world's economy to the extent that we once did. But we should try to use what leverage we do have to our own advantage.

This Nation is the world's grain reserve, the breadbasket of the world. In 1978, U.S. wheat exports were valued at $4.3 billion and proved 43 percent of the wheat traded internationally. OPEC nations import nearly 15 percent of U.S. wheat exports, and this provides OPEC countries with almost 50 percent of the wheat consumed in those countries. The U.S. imports 19 percent of OPEC's oil exports, and OPEC provides 38 percent of the oil used in this country.

In a recent Washington Post article, entitled "Using U.S. Wheat Against OPEC: Not as Farfetched as You Think," the author, Dan Morgan, claimed that we do have a great deal of leverage with regard to OPEC's wheat needs. The article states that the two criteria for U.S. economic leverage exist that it would be difficult for OPEC nations to do without our grain, and only this country and Canada can guarantee an ongoing supply of such magnitude.

If economic leverage is there with respect to wheat, I say that we can and should use it. We must try to do all that we can to try and stabilize oil prices.

There have been many of these so-called bushel of wheat for a barrel of oil proposals introduced into the House of Representatives. I think it is very important that this issue be raised in the Congress. All these proposals should be considered and thoroughly discussed and explored. The extent of our leverage, and the possibility of utilizing it should be the subject of extensive and intensive hearings by the relevant committees in the House. My bill, H.R. 4835, and another proposal I introduced, H.R. 4574, to establish a Council of Oil Importing Nations, were both referred to the Foreign Affairs Subcommittee on Economic Policy and Trade, chaired by my distinguished colleague from New York (Mr. BINGHAM). The gentleman from New York, chairman of the subcommittee, has assured me he will hold hearings on this bill; therefore, I shall not offer these amendments now and will await their determination at that time.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WOLFF).

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. FENWICK: Page 27, add the following after line 24 and redesignate the subsequent subsection accordingly:

"(k) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate before any license is approved for the export of goods or technology valued at more than $7,000,000 to any country concerning which the Secretary of State has made the following determinations:

"(1) Such country has repeatedly provided support for acts of international terrorism.

"(2) Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.

Mrs. FENWICK. Mr. Chairman, I do not think that we need a great deal of discussion. We have had a long debate on this bill. The amendment speaks for itself. The definitions have been already determined in other sections of the bill, and in other legislation; and we all know about the recent acts of terrorism, of international terrorism, and what they are capable of doing. So I ask the adoption of the amendment.

Mr. BINGHAM. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentlewoman for yielding.

I want to compliment the gentlewoman on her amendment and express my support for it.

Mrs. FENWICK. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentlewoman for yielding.

I support the amendment as well and accept it on behalf of the minority. As the gentlewoman knows, the amendment offered in the Committee on Foreign Affairs had some wording problem. Certainly there was no problem with the intent. This amendment is in perfect order.

Mr. BONKER. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Washington.

Mr. BONKER. I thank the gentlewoman for yielding. I would like to join the others in commending her for this amendment. I think it was a lot more realistic than what was approved on the Senate side, and I hope that this amendment will prevail.

Mrs. FENWICK. I know the other body has a much more stringent provision. I think this is a sensible and wise amendment. I thank the gentleman.

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

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey.

The amendment was agreed to.

□ 1400

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ICHORD: Page 10, strike out line 17 and all that follows down through line 4 on page 12 and insert in lieu thereof the following:

"(d) MILITARY CRITICAL TECHNOLOGIES.—(1) The Congress finds that the national interest requires that export controls under this section be focused primarily on military critical technologies, and that export controls under this section be implemented for goods the export of which would transfer military critical technologies to countries to which exports are controlled under this section.

"(2) The Secretary of Defense shall develop a list of military critical technologies. In developing such list, primary emphasis shall be given to—

"(A) arrays of design and manufacturing know-how:

"(B) keystone manufacturing, inspection, and test equipment; and

"(C) goods accompanied by sophisticated operation, application, or maintenance know-how,

which are not possessed by countries to which exports are controlled under this section and which, if exported, would permit a significant advance in a military system of any such country.

"(3)(A) The list referred to in paragraph (2) shall be sufficiently specific to guide the determinations of any official exercising export licensing responsibilities under this Act; and

(B) The initial version of the list referred to in paragraph (2) shall be completed and published in an appropriate form in the Federal Register not later than October 1, 1980.

"(4) The list of military critical technologies developed by the Secretary of Defense pursuant to paragraph (2) shall become a part of the commodity control list.

"(5) The Secretary of Defense shall report annually to the Congress on actions taken to carry out this subsection.

Mr. ICHORD (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. ICHORD. Mr. Chairman, as I stated earlier in the colloquy with the distinguished gentleman from New York (Mr. BINGHAM), I am offering this amendment, not on my own behalf but on behalf of the Research and Development Subcommittee of the House Committee on Armed Services.

This amendment was approved unanimously by the Subcommittee on Research and Development.

Mr. Chairman, I would state again for the benefit of Members who may not have been on the floor of the House at that time, we are now dealing with a subject that is directly under the jurisdiction of the House Committee on Armed Services. Granted, the House Committee on Foreign Affairs is the expert and has the expert staff members with regard to foreign policy but here we are dealing with the expertise of the House Committee on Armed Services, namely the protection of the national security.

I might state the most important subject with which we could possibly be dealing is the national security of the United States.

We are dealing with export controls for the purpose of protecting the national security of the United States.

When I first read the bill, I voiced concern about the vagueness and ambiguities in the legislation. I think there is reason for that, perhaps. This is an extremely complicated bill dealing with some extremely complicated subjects. Nevertheless, Mr. Chairman, I first thought the gentleman from New York (Mr. BINGHAM) was right in step with the thinking of the Department of Defense and right in step with the House Committee on Armed Services when he included this section "military critical technologies" on page 10 of the bill.

I would state it was the finding of a 1976 Defense Science Board, chaired by Mr. J. Fred Bucy, president of Texas Instruments, that we install a critical military technology approach in solving this problem with which we are faced in the field of export controls.

Mr. Chairman, I think I share the concern of all of the members of the House Committee on Foreign Affairs.

Mr. Chairman, I am not trying to restrict trade. Trade is very essential to the economic health and welfare of this Nation, but let me tell the members of the Committee on Foreign Affairs that even more essential to the health and welfare of this Nation is to protect our lead in technology. That is the only lead that we have today in the field of military affairs over our potential adversaries.

I went over the numbers a while ago. In tanks, we are outnumbered 7 to 1; airplanes, we are outnumbered 4 to 1; artillery pieces, we are outnumbered 6 to 1; and in chemical warfare we are outnumbered 50 to 1. Therefore, Mr. Chairman, we are dealing with the most crucial part of our military security, that is, our technological lead, the quality of our weapon systems.

Mr. Chairman, I concur with the 1979 Bucy Defense Science Board as do most of the experts in the research and development field and the entire Subcommittee on Research and Development.

They say, rather than concentrate on the end product one should concentrate on the critical technology behind that product.

Mr. Chairman, let me take some time in explaining this because it is an extremely technical matter. I am a generalist myself. I have a technical staff. I deal with a lot of technical problems. I might say that as a generalist I think I serve some purpose because sometimes the technologists cannot see the forest for the trees. They become too involved with the technical details.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ICHORD was allowed to proceed for 5 additional minutes.)

Mr. ICHORD. Mr. Chairman, we should not worry about exporting a particular commodity, which we are doing today. I would point out to the Members of this House that the man who ought to know, the Acting Director of the Export Administration Act has stated that our present export control program was a total shambles. I have that in the hearing record of the House Committee on Armed Services on H.R. 3216 dealing with this specific subject. Mr. Larry Brady testified it is an absolute shambles. He is the one who ought to know and I think the gentleman from New York (Mr. BINGHAM) will concur in that regard.

Let me say, Mr. Chairman, some Members of the House may disagree with me but I might not even object to the sale of 10 particular jet engines to a potential adversary. Ten jet engines in and of themselves might mean nothing. However, Mr. Chairman, I would object to the transfer of the manufacturing techniques or the metallurgical technology that goes behind the production of the jet engine blades. It is that about which we should be concerned.

There are several ways we can transfer our technological lead to our potential adversaries. We can do it through a scientific exchange program, we can do it through a technical data package. We can do it through turnkey packages, manufacturing processes and know how, or by maintenance and support capability.

I think this administration and past administrations have made a terrible mistake in building turnkey factories right in the countries that are our potential adversaries. That is where you transfer the manufacturing processes and know how. That is where you transfer the technological data of which I speak. That is where you transfer the maintenance and support technology. This is the export of our technological lead that we have.

Mr. Chairman, I will state to the Members of the House, I do not think we can keep our potential adversaries from some day getting this technology. I say that because they have a massive program to narrow the existing technological gap. They are doing it by clandestine methods, they are doing it by legal methods, they are doing it by illegal methods. Some day they are going to get it.

However, Mr. Chairman, we can delay them and maintain the only lead that we have: Our technology. We can delay them, say, for 10 years rather than 3 years.

□ 1410

That is extremely important, because that is how we measure a technological lead, in terms of time.

Now, when I first read the bill of the gentleman from New York, Mr. Chairman, I thought that I was in agreement with the gentleman as it appeared he was mandating the existence of a military critical technologies list; but after close reading, I find that the gentleman did not do that.

We took testimony, the Committee on Armed Services took testimony that this is the way to solve the problem. We can maintain a large trade in exports. We can maintain trade with the end product. Do not worry about the end product. Worry about the technology behind the production by establishing this military technologies approach.

I have testimony from Dr. Ruth Davis, who is head of the R. & D. in the Defense Department, Under Secretary for Research and Development. She says that she is ready to go with this critical military technologies approach. She stated personally to me that she can have the approach in place by October 1, 1980.

Now, the gentleman from New York in his bill, and I think the gentleman from New York is to be commended for at least recognizing the importance of this approach and the potential that it has, but the gentleman did not mandate the establishment of it.

Mr. Larry Brady, the Chairman of the Export Administration Board, testified they are ready to go with it within 1 year.

I will state to the gentleman from New York that this will solve the problem the gentleman is talking about. Even looking at this approach has resulted in the removal of 162 commodities from the export control lists, so I think it would

accomplish the objectives of the gentlemen on the Committee on Foreign Affairs to increase our trade, but still protect on national security.

Mr. Chairman, I would ask that the members of the committee give support to this amendment in the interests of national security.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the amendment.

First of all, let me say, Mr. Chairman, that I agree with I think 90 percent of what the gentleman from Missouri has just said. I very much agree that military critical technologies are the heart of this matter of national security export controls. In fact, in the bill which I originally introduced, we tried to limit controls exclusively to military critical technologies. But we found we could not do that, because the Defense Department had been wrestling with the question of what is a military critical technology for 3 years and had not been able to come up with the answers. As of the time we had our hearings, they were still struggling with it. It is still a crucial idea, a crucial concept.

The gentleman from Missouri, in making his eloquent plea, sounded as if we had not provided for a list of critical technologies.

Let me call attention to pages 10, 11, and the beginning of 12 in the bill, which deal with the subject of military critical technologies. The bill recognizes that the national interest requires that export controls under this section be focused primarily on military critical technologies. Then it goes on to say:

> The Secretary of Defense shall develop a list of military critical technologies.

That is a mandate. If it is not, I do not know what is. It specifies what should go into the list. If you are a nonengineer, as I am, you will have difficulty understanding the specifications that are to be included in the list of military critical technologies that are set forth there on page 11, lines 4 through 9. But those are the very specifications that were taken right out of the Bucy report that the gentleman from Missouri (Mr. ICHORD) referred to. We take the Bucy report very, very seriously. We think it has brought a new and proper emphasis to the whole field of national security export controls.

Now, what the gentleman from Missouri did not make clear to us is just what his amendment does. It does not really change the language of the bill, except in a few respects. It follows it pretty closely. One thing it does is to eliminate this language which comes from paragraph (1) of subsection (d) on page 10: "export controls under this section be removed insofar as possible from goods the export of which would not transfer military critical technologies to countries to which exports are controlled under this section."

That is simply to emphasize the point that we are concerned with military critical technologies, and we want the agencies concerned to get rid of a lot of this underbrush which takes their time, which is not critical, which is not important, and let us get it out of the picture. That is all that sentence says, but it does not conradict what went before in paragraph (1), which is "that the national interest requires that export controls under this section be focused primarily on military critical technologies."

Now, another thing the Ichord amendment does, with which I quarrel, and I must say quarrel only mildly, is that the Ichord amendment sets a deadline for the completion and publication of the list at October 1, 1980, a year away. We simply do not know whether the Defense Department will be ready at that point or not. The gentleman has said they have told him they are ready. That is not our information. We understand they are still struggling with it. In any event, hopefully they will have it ready before October 1. Maybe it will be a little later. That is not a matter of the utmost importance, in our judgment, since the gentleman has modified his amendment to say that the original version of the list shall be completed and published in an appropriate form. The words "in an appropriate form," which were not in the gentleman's original version of this amendment, recognizes, I take it, that some of this material must be classified and cannot be published for anyone to read.

The CHAIRMAN. The time of the gentleman from New York (Mr. BINGHAM) has expired.

(By unanimous consent, Mr. BINGHAM was allowed to proceed for 5 additional minutes.)

Mr. ICHORD. Mr. Chairman, will the distinguished gentleman yield on that point?

Mr. BINGHAM. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the distinguished gentleman from New York is correct in pointing out this is one of the differences between my amendment and the approach in the bill. It definitely does establish a critical military approach on October 1, 1980; but the gentleman stated that there was no evidence to the effect that it could not be established within that time. I would point out to the gentleman in the hearing record on H.R. 3216 that the Committee on Armed Services conducted is the testimony of Mr. Larry Brady, the Director of the Export Control Agency, who has been working on this matter with the Defense Department. Mr. Battista, a staff counsel, asked him this question:

> Can you achieve it in 180 days?
> Mr. BRADY. I do not think so.
> In what time frame do you think?
> Mr. BRADY. I think six months to a year perhaps. Six months to a year.

I would state to the gentleman from New York that I personally called Dr. Ruth Davis. She gave me the assurance, and Dr. Ruth Davis has the overall responsibility for the establishment of this approach, that she can put it into being in 1 year; so I have no doubt about their being able to institute the approach.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for his contribution.

May I say again that before our committee, the Defense Department, which has the responsibility for the preparation of the list—Mr. Brady, of course, has no responsibility for the creation of the list—was dubious as to whether it could be done within the matter of a year. But let me proceed, because that is just one of the three differences, and I think it is the least important difference between the version of the gentleman from Missouri (Mr. ICHORD) and the version of the bill.

□ 1420

The third point is the most important one. In the legislation, after the list has been developed, under paragraph (4) we say:

> The list of military critical technologies developed by the Secretary of Defense pursuant to paragraph (2) shall become a part of the commodity control list subject to the provisions of subsection (c) of this section.

Mr. Chairman, the amendment offered by the gentleman from Missouri (Mr. ICHORD) leaves out the last part of that sentence. In other words, under the proposal of the gentleman from Missouri, the list prepared by the Secretary of Defense becomes part of the control list without anybody else having anything to say about it. It is solely the responsibility of the Defense Department, and that is an area in which we and, I may say, the Defense Department also strongly disagree. We say that this total process of deciding what should be on the control list has been and should continue to be a joint process. The Defense Department has the leading role.

I want to emphasize that in no case has the Secretary of Commerce sought to override the Secretary of Defense on matters of a license issuance. The Defense Department is satisfied that the procedures that have been in effect before, bringing in other agencies, the Commerce Department and the State Department, should be continued.

It is that point on which I think we primarily differ. It is not on the question of the importance of focusing on military critical technologies.

Those are the three differences in the version offered to us by the gentleman from Missouri (Mr. ICHORD) and the bill before us which, as I say, emphasizes the importance of this concept.

Mr. Chairman, I hope that the Committee of the Whole will go along with the position recommended by the Committee on Foreign Affairs and will reject the amendment.

Mr. ICHORD. Mr. Chairman, will the gentleman yield on that particular point?

Mr. BINGHAM. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I think the gentleman from New York (Mr. BINGHAM) has delineated the differences except in one respect. There is a third or a fourth major difference, and that, I would point out, is the result of an oversight by the people drafting the bill.

I direct the attention of the Members to page 11, line 10 of the bill, where this is stated:

> * * * which are not possessed by countries to which exports are controlled under this section and which, if exported, would permit a major advance in a weapons system of any such country.

That is not in keeping with the policy statement on page 4, and I read from page 4, line 12:

It is the policy of the United States to use export controls to the extent necessary (A) to restrict the export of goods and technology which would make a significant contribution * * *.

Mr. Chairman, when the bill uses "major" and "significant," in that manner, there is one heck of a difference, I would say to the gentleman from New York (Mr. BINGHAM).

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. BINGHAM) has expired.

(By unanimous consent, Mr. BINGHAM was allowed to proceed for 1 additional minute.)

Mr. BINGHAM. Mr. Chairman, if I may respond to the gentleman from Missouri (Mr. ICHORD), the gentleman is quite right in pointing out that that is a difference. It is not a difference which I consider to be a significant one. If the gentleman believes it is and if his amendment is voted down and he wishes to offer an amendment simply to change the word, "major," to "significant," I would not oppose it.

Mr. BADHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would, first of all, like to commend the gentleman from Missouri (Mr. ICHORD) for his involvement in this in trying to protect military critical technologies, from improper export because it is essential to our defense effort to protect our technologies.

On the other hand, however, we are experiencing delays in the regulatory process and denials which are causing tremendous adversity to industry in the United States of America which is trying to do something about the export imbalance and the balance of trade deficit which is contrary to the interests of the United States of America.

One association which has a great deal of involvement in my district, the American Electronics Association, surveyed its more than 1,000 member companies, which is small in terms of all industry of the United States, on their export trade activities. They had a very good response. About 400 of the 1,000 responded to the inquiries that were sent, and they clearly demonstrated that the present export control system, where we are bounced around from State to Commerce to Defense, with no hope in some cases of any kind of a decision at all, results in the fact that jobs are lost and trade is lost.

It was revealed that in 1978 over $1 billion in sales in just one small segment of our economy was denied, not because it was going against military technology transfer in the critical sense but because there were export licensing delays and denials and just plain uncertainties. These losses contribute to our deficit in the balance of trade. They also contribute to the lack of employment increase in the United States as well as the loss of jobs for thousands of Americans.

Mr. Chairman, I commend the gentleman for preserving military critical technologies, and I hope, as this bill passes on its way through this House and beyond, that we can do something about the ridiculous denials, delays, and overregulatory processes that keep our country from being in the export market and cause the loss of American creditibility throughout the world as a reliable supplier.

Mr. Chairman, I commend the gentleman for offering this bill, and I commend the gentleman from Missouri (Mr. ICHORD) for offering this amendment. I hope that in the future we may put ourselves in a position where we allow people to export technology and export goods from this country, which can be done with no threat to our military defense.

Mr. COURTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(Mr. COURTER asked and was given permission to revise and extend his remarks.)

Mr. COURTER. Mr. Chairman, I support the amendment offered by my distinguished colleague, the gentleman from Missouri (Mr. ICHORD).

There is obviously a crying need to control the export of technology which would be detrimental to our national security. It makes little sense to make available to potential adversaries our most sophisticated technologies which would contribute to their military capabilities.

Incredibly, it is obvious from the testimony that we heard in the Subcommittee on Research and Development that this technology is very often clearly available to those people who would make themselves our adversaries today. Any sampling of the hours of testimony presented before the Subcommittee on Research and Development chaired by the gentleman from Missouri (Mr. ICHORD) on the issue of exporting military critical technologies reveals a frightening story of an almost unchecked flow of technology out of this country to other countries. This includes computer technology, micro-computer technology, micro-circuitry technology, electronic technology, optical technology, and laser technology, that goes into Soviet hands. Whether it goes directly, or indirectly by some other means, it is apparent that the control of military critical technology is woefully inadequate at the present time.

I think that the bill as submitted speaks to that particular problem, and I think that the Ichord amendment strengthens it and speaks even more clearly. These technologies are being shipped to the Soviet Union directly, and often they are sent indirectly.

The transfer of military critical technology is dramatically eroding our qualitative lead over the Soviet's military capability. And that is all we have right now, a qualitative lead. We do not have a quantitative lead.

The gentleman from Missouri (Mr. ICHORD) articulated the fact that we are woefully behind in tanks, in artillery, in airplanes, in aircraft, and in other areas.

The current export control mechanisms which this bill seeks to improve are unworkable. On one hand they inhibit our export trade, and on the other they permit vital technology to fall into the hands of those who would turn that technology against the United States of America.

The amendment offered by the gentleman from Missouri (Mr. ICHORD) seeks to strengthen the Export Administration Act by allowing the Secretary of Defense to develop a list of military critical technologies, not only to develop this list but do so quickly and in fact by a day certain.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, on that point I think the gentleman from New Jersey (Mr. COURTER) has put his finger on the point that is most important. This amendment is offered with a view of increasing trade, not decreasing trade. As I pointed out in my own statement, I think the gentleman from New York (Mr. BINGHAM) will agree with the Director of the Board, Mr. Larry Brady, when he says the present export control program is in a shambles.

□ 1430

This is all he had to say about 4034. If I thought 4034 would straighten up this shambles, I would not be offering this amendment, and I do not think the gentleman in the well would now be in the well.

Mr. Brady says:

The House bill also has another provision in it which is not workable.

Mr. ICHORD. What bill are you talking about now?

And I am reading from the report—

I am talking about 4034. When you take the deadlines together with the appeals procedures, I am firmly convinced that we will tie it into context. The effect of that will be that the business community will say accurately the system does not work, it needs changing, it needs replacing, it is no good.

It is in that spirit that I offer this amendment.

I commend the gentleman in the well for the remarks that he is making.

Mr. COURTER. I thank the gentleman for his observations. It is so true. To adopt the amendment, is to add clarity, making a date certain as to when a list of critical military technology would be written and made available.

I might add, basically, there was a statement made by an individual in the other body, which was repeated in the Defense/Space Daily on July 25 of this year.

In 1961, the Soviets attempted to obtain from the U.S. grinder machines used to mass produce ultra-high precision miniature ball bearings. Congress interceded and, with the support of President Kennedy, blocked this sale. However, the Soviets persisted and finally in 1972—12 years later—these machines were sold to the Soviets. In 12 years the Soviets could not master this technology, but finally we gave it to them.

This amendment speaks to that very critical problem, and I urge my colleagues on my side of the aisle and on the other side of the aisle to support it.

The CHAIRMAN. The time of the

gentleman from New Jersey (Mr. COURTER) has expired.

(On request of Mr. BINGHAM and by unanimous consent, Mr. COURTER was allowed to proceed for 1 additional minute.)

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, just in relation to the ball bearing cases, the Bryant Grinder case, the facts there were that for 12 years the industry, the exporters, were claiming that the Swiss were producing identical machines and they were getting the business with the Soviet Union. It took years for them to persuade the administration that that was the case. Finally foreign availability was established and the licenses were issued.

Mr. DORNAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am heartened to see that the amendment offered by the gentleman from Missouri (Mr. ICHORD) will tighten up this title I, the title that mandates the development of a list of critical technologies by the Secretary of Defense. If the Department of Defense does not have the capability to do this, then we are in worse shape than I would ever have imagined, and they better harness some of the multitude of Ph. D.'s they have over there to develop this expertise.

I was very pleased to see that the authors of this bill employed the suggestions of the report on export of technology for the Defense Science Board presented by Mr. Fred Bucy, president of Texas Instruments, namely, providing guidelines on design and manufacturing, keystone manufacturing, test equipment and goods of a militarily sensitive nature.

As much as I appreciate their efforts, I do not believe that the wording of the measure goes far enough in defining or clarifying the guidelines for the Secretary of Defense who is charged with developing a list of critical technologies. But in the interest of team play here, I will defer this year to the excellent amendment of the gentleman from Missouri. All the more reason to support him is that there are Members who feel, as I do, that we cannot be too specific in this area.

I ask my colleagues in the House to recall again what was just discussed, the 1972 sale of 164 Centalign-B precision grinding machines. They were used in the production of precision miniature ball bearings. The equipment produces small, pinhead-sized ball bearings of almost perfect uniformity. The sale was made by the Chucking Grinder Co. of Vermont. It was approved by the State Department. A significant use of precision ball bearings is in missile guidance systems used in this country and also in the Soviet Union. The Defense Department warnings were overridden more than once. The Soviet Union now has 7,100 MIRV warheads on heavy missiles, including the awesome heavy SS-18, which can now strike targets within a radius of 600 feet.

I ask my colleagues to also consider the 1976 plan for Control Data to sell the Soviets its most sophisticated computer, the Cyber 76 or 7600 series. That sale was canceled because many of the Members of this House—I circulated a list myself. I believe a record-breaking 315 signatures of the House Members blocked this sale by putting pressure on the administration. And, as we all remember now, there were only a small number of Cyber 7600 series computers in operation, and they are still only in the most sensitive or militarily critical agencies of the U.S. Government: The National Security Agency, the Energy Research and Development Agency, NASA, and the U.S. Air Force.

That Cyber 76 is still at least 40 times faster in processing information than its nearest Soviet counterpart. It is incredibly naive, as some members of the business and political communities would have us believe, that the Cyber 76 or a comparable computer would be used by the Soviets for purely peaceful, domestic purposes. It is incredible, indeed nightmarish, that such a sale was actually contemplated. We need assurance that such a sale is never contemplated again.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from New York.

Mr. BINGHAM. Our subcommittee had hearings on the ball bearings case 3 years ago and brought out all of the facts about foreign availability in that respect. I just point out in that regard that the test of the MIRV's occurred before any of the licenses were issued for those ball bearings.

On the Cyber 7600, we also had hearings.

It is not correct to say that export licenses were ever contemplated by anybody, certainly nobody in our committee.

The gentleman is correct in pointing out the Cyber 7600 is something we do not want to export to the Soviet Union, but the point I want to make is that nobody, in the control mechanism we have had, was in favor of that.

Mr. DORNAN. The gentleman had excellent committee hearings and allowed me to sit in on even some of the executive committee hearings. Those hearings certainly put the nails in the coffin of that sale.

We had a very new Secretary of Commerce then, and in a personal phone conversation with her office—I was not aware other people were listening in until they interrupted finally, and I asked them to identify themselves—she gave me the clear impression that it was indeed being contemplated.

The CHAIRMAN. The time of the gentleman from California (Mr. DORNAN) has expired.

(On request of Mr. ICHORD and by unanimous consent, Mr. DORNAN was allowed to proceed for 3 additional minutes.)

Mr. DORNAN. You recall a memorandum was discovered that showed Control Data was of the opinion that completely circumnavigated the State and Defense Departments of this country to build the largest computer in the world, even bigger, they hoped, than the current state of the art.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Missouri.

Mr. ICHORD. I think the record will show, will not the gentleman in the well and the gentleman from New York agree, that the Commerce Department was in favor of the export of the Cyber 7600? The Defense Department objected and, I believe, they had to go to the President for a resolution?

Mr. DORNAN. It was, at the White House; but there was divided opinion in the Commerce Department. The final decision never really came down from the new Secretary of that Department, Mrs. Juanita Kreps.

Mr. ICHORD. Certainly the Cyber 7600 was not quoted. The gentleman from California is correct.

I brought up another matter, which should be of great concern to this body, and that was the matter of the precision ball bearings.

I will state to the gentleman from New York—and this is another reason why this critical technology approach is so important—it would not have been so important if you had just transferred the precision ball bearings themselves. We didn't do that. We transferred the machinery to make ball bearings, which really put them in the position of making the precision ball bearings which can be used in MIRV'd missiles. This is what I am talking about. I doubt if they could engineer precision ball bearings themselves and make them in large quantities. It is the technology we are concerned about.

Mr. DORNAN. If I could add, the gentleman from New York is quite correct that the testing of some of these MIRV's had gone on before this particular sale. However, it is the constant increase in accuracy, down to very small differences, that transforms a MIRV'd warhead into a killer warhead capability.

Mr. ICHORD. Is it not generally agreed in the technological community that the Soviet Union could not have had the precision that they now have today if it had not been for the export of this technology?

Mr. DORNAN. Absolutely correct.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the distinguished gentleman from New York.

Mr. BINGHAM. The fact is that the Swiss were selling machines capable of producing the same degree of accuracy. It was that reason the licenses were issued. The Swiss were not just selling ball bearings; they were selling the machines to make the ball bearings.

□ 1440

That was the issue that was discussed at length in our hearings 3 years ago. We put out a report for the entire Congress. The significance of it was that as far as foreign availability that there was no way we could prevent that technology from being exported to the Soviet Union. The Swiss are not members of the——

Mr. DORNAN. If I could finish some

of my remarks and give me the time, I will certainly engage further in colloquy.

The CHAIRMAN. The time of the gentleman from California (Mr. DORNAN) has expired.

(At the request of Mr. JOHN L. BURTON and by unanimous consent, Mr. DORNAN was allowed to proceed for 5 additional minutes.)

Mr. DORNAN. I thank the gentleman.

In his report to the Defense Science Board, Mr. Fred Bucy of TI also declared that the definition of technology must be used in a specific sense if the issues are to be clarified. That is his quote.

I agree with this statement and other statements of Mr. Bucy entirely, specifically when our national security is at stake.

The issue to be clarified is the relationship between the export of technology and our national security. The key to that relationship is the production of military weapons systems.

The relationship between technology and goods and the weapons systems of actual or potential adversaries, especially the Soviet Union, is critical. It mandates the Secretary of Defense to give emphasis to this bill and the amendment of the gentleman from Missouri (Mr. ICHORD) with even more specificity to advance the state of the art or emerging technology in the possession of the United States, which is indispensable to current or projected U.S. military systems.

In light of state of the art or emerging technology, we must take into consideration the fact that the military value of the new technology is time dependent. Dr. Ruth Davis, Deputy Under Secretary of Defense for Research and Engineering, has correctly pointed out that our national security has in recent times become increasingly dependent upon our military technological superiority, which in turn is based on maintaining our technological leadtime.

I conclude by noting that this problem includes the transfer of goods or products that may embody critical technologies of a military sensitive nature.

We simply must counter the export of goods, which through a process of reverse engineering, could facilitate the design and manufacture of military systems or reveal critical elements of the U.S. military system.

The Ichord amendment definitely helps to plug some of these leaks.

I remind all my colleagues that during the past 10 years approximately $10 billion annually has been expended on military R. & D. to maintain our lead in this military technology field; and for this past fiscal year our Congress has voted $12 billion for R. & D.

If it is true military security or military superiority is tied directly to maintaining a lead in the technological revolution, then we simply must make every effort to maintain that lead by preventing the transfer of militarily sensitive technologies upon which our security is based, even if we infringe—and I say this as a defender of free enterprise—occasionally on the side of an imbalance of payments or the free commerce in technology throughout this world in the West.

To do that, we must, as Mr. Bucy suggests, be specific, as specific as is humanly possible.

We must give the Department of Defense a clear indication of what guidelines this Congress wishes them to follow. There should be no doubt about the intentions of my colleagues in this matter. If we err, as a famous chairman of the Defense Committee in this House said for years, let us err on the side of security.

I urge my colleagues to support this excellent amendment by the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding.

The gentleman from New York (Mr. BINGHAM), brought in the matter of availability in the case of precision ball bearings, which the gentleman from California raised.

I would point out to the gentleman from New York that is something we could argue about as nontechnologists particularly until doomsday as to whether that availability did exist.

Mr. DORNAN. An unusual choice of words.

Mr. ICHORD. This is what we are doing in this amendment. Yes, we are saying that the Department of Defense is the one who should decide whether there is critical military technology involved.

They are the ones who should decide the availability, because they have the intelligence. That is their duty. Now, the State Department has the responsibility in the case of foreign policy, but my God, let us not put the Secretary of Commerce in charge of the defense of this Nation.

I agree with the gentleman from New York, that is the main difference. The Secretary of Defense is responsible for the national security of this country.

Now, both the Secretary of Defense and the Secretary of Commerce are answerable to the President of the United Sttaes, who is Commander in Chief, but why not pinpoint responsibility? That is why we have such a shambles today. We do not pinpoint responsibility.

Mr. DORNAN. The reason, even though we have a slight quarrel here over degree, that I am so ecstatic over this bill, the chairman's hearings and the gentleman's contribution, the gentleman from Missouri (Mr. ICHORD), is that it emerges out of a long history of debate on these critical national security issues.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. ICHORD) has expired.

(At the request of Mr. DORNAN, and by unanimous consent, Mr. ICHORD was allowed to proceed for 1 additional minute.)

Mr. DORNAN. It is an old story for those interested in aerospace that the reason that the Mig-15 appeared as a swept-wing fighter in Korea that could outmaneuver and outaccelerate the F-86 is because the British sold them the main jet engine.

We have a problem not only with reverse engineering but with "eyeball technology transfer" that we cannot do anything about. That is an expression I have coined after I sat on the Ilyusin 76 and 86 aircraft at the Paris Exposition in 1977.

If you look at the Concorde and the Soviets' ill-fated Tupelov 144's, if you look at the Backfires as opposed to our B-1, if you look at their latest fighter technology—Aviation Week and Space Technology a few weeks ago showed they have copied our F-18, our A-10 and our F-15 and F-16, maybe through "eyeball technology", that is all the more reason we should not help them with critical technology or goods, as we have done in the Kama River truck factory, with computers to help them reverse engineer in addition to what they get stealing from all of the European countries through their agents.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, I want to support the chairman of the subcommittee in opposition to the amendment of the gentleman from Missouri. I think the bill that he has written is a good one. I wish we had not adopted many of the amendments that we already have.

In my district, it sometimes takes as long as 16 months to get a license to export a very simple piece of machinery. There are thousands of workers within my district whose livelihoods depend on our ability to sell overseas.

It seems to me that we are being overprotective in our desire to see that we do not ship military technology abroad.

None of us wants to do that.

In defense of the subcommittee chairman, I would like to say that when the ball bearing incident occurred, the jurisdiction for this material was of course in another committee. That other committee continued the same kind of hearings that the gentleman conducted on the subject—that was the Banking Committee at the time—we found the same thing, that the exact material or machinery was available from the Swiss and could be sold and that was the reason for the issuance of that license.

With respect to Cyber 76, Mr. Chairman, that machine is made within my district.

If this country decided that it did not want to sell or to lease or to allow to be used on some kind of contractual basis by Russia, that machine, so be it; and I honor that decision, because I certainly do not want to give away any military technology. I would not like to have the House think there is any attempt by the employees or managers of that company to get around the U.S. restrictions, whatever they may be, whether they are good laws or bad laws.

Those are patriotic people. They are good people. What they were trying to do in that sale is to sell some technology

that was 20 years old to be used for international meteorological analysis, and in my judgment there was no reason not to sell the machine.

However, we decided not to sell it, and so that was done with.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding.

I want to confirm the statement just made by the gentleman from Minnesota. Certainly no one should question the patriotism of the manufacturer of the Cyber 76, because they are not in a position to make the necessary decisions to protect our national security.

□ 1450

This particular company should not be the one protecting the national security of the United States. Here the gentleman confirms my point. It should be the Secretary of Defense that has that responsibility. An individual company is not in a position to make that decision.

Mr. FRENZEL. I thank the gentleman for his contribution, but I want to be sure everybody knows that there is no intent to subvert whatever law might be on the books. I hope that point is clear.

The other point I want to make is this was a 20-year-old piece of technology.

The final point I want to make is that it still takes often a year to sell technology that has no military application whatsoever, because we have to wind our way through tortuous processes that involve department after department.

I think the language of the bill, which says that, if it is not military, then we will try to make it easier, makes a lot of sense. It makes sense particularly since we are running this enormous deficit in our balance of trade, and because we are nervous about our employment and we would like to have the U.S. employees producing goods for export. I think it is fine if we prohibit all of these sales of military technology, but let us leave the language the way it is. It specifies both. It says do not give away the military, but it also says let us make it easier to sell this stuff that is not military.

I certainly hope the amendment will be defeated.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the Ichord amendment. As the gentleman from Missouri has pointed out, in our technology race, if you will, with the Soviet Union, all we can really do is to delay technology. We have all seen how every technology that we have developed has been adopted sooner or later by the Soviets. But it is important that we continue to develop such technology and keep it out of the hands of our adversaries.

I think it is also very important, although it is not before us today, that we continue to make the kind of investments in research and development that are needed to stay ahead of our adversaries. This provision, the Ichord amendment, is a refinement of what is already in the bill, but it makes even more clear that we are serious about protecting military critical technologies.

For example, on pages 10 and 11 the Ichord amendment makes a change by stating something positively instead of negatively, as the bill presently does. The Ichord amendment would provide that export controls be implemented for goods, the export of which would transfer military critical technologies. The bill, as now written, takes the opposite viewpoint and says that goods should be removed from the list unless they affect our security.

It is really a matter, I think, of making ing sure that the correct signals are being sent to our adversaries and that we will not jeopardize our national security.

Incidentally, when this bill came out of the subcommittee and was before the full committee, Department of Defense officials told me that although the way the bill had been amended really took care of a lot of their problem insofar as the law would actually read, they were quite concerned that the wrong signals would be sent. It is a matter of emphasis.

The amendment further requires that the Defense Department proceed expeditiously with development of the military critical technologies approach. It has been working on that for 3 years and it should not be delayed any further than is required.

I believe that this amendment is a very important amendment. It is not as important perhaps as it once was, because we did make some changes in the bill. But we should not stop there. I think we should adopt this amendment, that will send the proper signal to our adversaries, that is, that we are serious about controlling our technology and that we do think that the Department of Defense should have a very important part to play in this whole process of trying to prevent our adversaries from gaining access to our military critical technology.

● Mr. DICKINSON. Mr. Chairman, I would like to voice my support for the rapid implementation of the military critical technologies approach to controlling the flow of U.S. military technology to our adversaries. Like the gentleman from Missouri, I am very concerned that our technological lead over the Soviet Union is rapidly eroding. This erosion is due both to Soviet efforts in developing their own technology base together with capitalizing on technology that has been directly transferred to them from the West.

This effort has led to recent Soviet advancement in high technology areas such as the development of: First, a highly accurate ICBM guidance system; second, a look-down/shoot-down interceptor aircraft; third, a killer satellite; fourth, an advanced submarine; and fifth, a new family of high speed computers.

There is virtually nothing we can do to stem the Soviets relentless pursuit of technological excellence through their own laboratory efforts—over the past 5 years they have outspent the United States by over $40 billion in this area—but we can help to protect our own technological breakthroughs by strengthening the military critical technology provision in this bill. I join my colleagues in asking for your support of his amendment.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD).

The question was taken; and on a division (demanded by Mr. BINGHAM) there were—ayes 27, noes 9.

RECORDED VOTE

Mr. BINGHAM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 273, noes 145, not voting 16, as follows:

[Roll No. 456]

AYES—273

Abdnor
Addabbo
Akaka
Alexander
Ambro
Andrews, N. Dak.
Anthony
Archer
Ashbrook
Atkinson
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Chappell
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Devine
Dickinson
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Ferraro
Fish
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Gaydos
Gephardt
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammer-schmidt
Hance
Hansen
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lungren
McClory
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marlenee
Marriott
Martin
Mathis
Mazzoli
Mica
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Nelson
Nichols
O'Brien
Oakar
Panetta
Pashayan
Patten
Paul
Perkins
Pickle
Price
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose

Roth	Solomon	Wampler
Rousselot	Spence	Watkins
Royer	St Germain	White
Rudd	Stack	Whitehurst
Runnels	Staggers	Whitley
Russo	Stangeland	Whittaker
Santini	Stanton	Whitten
Satterfield	Steed	Williams, Mont.
Sawyer	Stenholm	Williams, Ohio
Schroeder	Stratton	Wilson, Bob
Schulze	Stump	Wilson, C. H.
Sebelius	Symms	Wilson, Tex.
Sensenbrenner	Synar	Winn
Sharp	Tauke	Wolff
Shelby	Taylor	Wright
Shumway	Thomas	Wyatt
Shuster	Treen	Wydler
Skelton	Trible	Wylie
Slack	Ullman	Yatron
Smith, Nebr.	Van Deerlin	Young, Fla.
Snowe	Volkmer	Young, Mo.
Snyder	Walker	Zeferetti

NOES—145

Albosta	Findley	Nolan
Anderson, Calif.	Fisher	Nowak
	Fithian	Oberstar
Andrews, N.C.	Ford, Mich.	Obey
Annunzio	Forsythe	Ottinger
Ashley	Frenzel	Patterson
Aspin	Garcia	Pease
AuCoin	Giaimo	Pepper
Badham	Gibbons	Petri
Barnes	Gray	Peyser
Bedell	Green	Preyer
Beilenson	Hall, Ohio	Pritchard
Bingham	Hamilton	Pursell
Blanchard	Hanley	Rangel
Boland	Harkin	Ratchford
Bolling	Harris	Reuss
Bonior	Hawkins	Richmond
Bonker	Holtzman	Rodino
Brademas	Jeffords	Rosenthal
Brodhead	Johnson, Colo.	Rostenkowski
Brown, Calif.	Jones, Okla.	Sabo
Burlison	Kastenmeier	Scheuer
Burton, John	Kildee	Seiberling
Burton, Phillip	Kostmayer	Shannon
Carr	LaFalce	Simon
Cavanaugh	Lehman	Smith, Iowa
Chisholm	Leland	Solarz
Clay	Lewis	Spellman
Collins, Ill.	Lowry	Stark
Conable	Lundine	Stewart
Conyers	McCloskey	Stockman
Corman	McHugh	Stokes
Danielson	Maguire	Studds
Daschle	Markey	Swift
Dellums	Marks	Thompson
Dicks	Mattox	Traxler
Dingell	Mavroules	Udall
Dixon	Mikulski	Vander Jagt
Dodd	Mikva	Vanik
Donnelly	Miller, Calif.	Vento
Downey	Mineta	Walgren
Eckhardt	Mitchell, Md.	Waxman
Edgar	Moakley	Weaver
Edwards, Calif.	Moffett	Weiss
Erlenborn	Moorhead, Pa.	Wirth
Fary	Murphy, Ill.	Wolpe
Fascell	Myers, Pa.	Yates
Fazio	Neal	Zablocki
Fenwick	Nedzi	

NOT VOTING—16

Anderson, Ill.	Diggs	McCormack
Applegate	Drinan	Matsui
Beard, R.I.	Flood	Roybal
Carter	Gingrich	Young, Alaska
Cheney	Leach, Iowa	
Derwinski	Lederer	

□ 1510

The Clerk announced the following pairs:

On this vote:

Mr. Beard of Rhode Island for, with Mr. Lederer against.

Mr. MARLENEE and Mr. LUKEN changed their votes from "no" to "aye."

Mr. TRAXLER changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to section 104?

AMENDMENTS OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer two amendments.

The Clerk read as follows:

Amendments offered by Mr. GLICKMAN: On page 8, line 24, insert the following new sentence immediately after the period: "Further, the Secretary shall include in the notice to the applicant of denial of such license what, if any, modifications in or restrictions on the goods or technologies for which the license was sought would allow such export to be compatible with controls implemented under this Section, or shall indicate in such notice which Departmental officials familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restrictions if appropriate.".

On page 23, line 6, insert the following new sentence immediately after the period: "Further, the Secretary shall include in the notice to the applicant of denial of such license what, if any, modifications in or restrictions on the goods or technologies for which the license was sought would allow such export to be compatible with controls implemented under this Section, or shall indicate in such notice which Departmental officials familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restrictions if appropriate.".

Mr. GLICKMAN. Mr. Chairman, I ask unanimous consent that the two amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GLICKMAN. Mr. Chairman, the purpose of these amendments is to require the Secretary of Commerce in both cases where an application for an export license has been denied either for national security reasons or for foreign policy reasons, to give the applicant some reasons why it has been denied and to suggest to the extent feasible what modifications or restrictions on the technologies and goods for which the license is sought could be changed to be compatible with getting the items exported, or if that is too administratively difficult, at a minimum to let the applicant for the license know which department official is in charge of his license application so that that applicant can go to that person and find out what is wrong with the application and how the problem can be remedied. The reason for that, Mr. Chairman, is the fact that while many large businesses—whether they be the Boeing Co. or Cargill—have lobbyists up here and work very frequently with the department officials to find out whether export licenses can be approved or not, small businesses do not have that financial capability. So the purpose of the amendments, Mr. Chairman, is to require the Secretary to do one of two things. When an export license is denied by reason of national security control or foreign policy: First, he shall include in the notice to the applicant if there are any modifications or changes that need to be made in order to get the items exported; or, second, if he cannot do that, to let the applicant know who in the Department of Commerce will be made reasonably available to the applicant so that the applicant can then go back and try to work out something to get the items exported. The whole purpose is that the Department in effect already does this for big business, and all I am trying to do is to insure that all businesses have the capability to figure out how to cure any defects in their export licenses in order to insure that we can get goods reasonably exported without unreasonable delay.

I understand that the Department of Commerce was concerned in that the language of this amendment could bureaucratize even more their agencies. So I have structured the language to indicate that if the department in charge could not specifically indicate what was wrong with the export license, at a minimum that department would be required to let the applicant know who in the department was familiar with the application so that he could help the licensee out and get the license approved if possible. Basically, this amendment is just an incentive to try to get as many export licenses approved to the extent possible and try to help a lot of people in this country who cannot afford a Washington lobbyist to help them.

I think it is a straight forward and simple amendment.

□ 1520

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

We have had an opportunity to examine these amendments. We have no objection to them.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from California.

Mr. LAGOMARSINO. This whole bill is an attempt to balance between the attempt to make it easier to get the licenses to export noncritical technical goods and the desire on the other hand as was demonstrated by the last vote, to secure our security.

This amendment does what many of the speakers who opposed the last amendment does. It makes it easier for business to get licenses approved, it treats the little guy like the big companies are already treated. I think it is an excellent amendment and I strongly urge its adoption.

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

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Kansas (Mr. GLICKMAN).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ICHORD: Page 16, strike out lines 8 through 23.

Redesignate the following subsections accordingly.

Mr. ICHORD. Mr. Chairman, I first wish to thank the members of the committee for the overwhelming vote on the last amendment that I offered.

As I pointed out on the previous amendment, this is not my amendment. This is an amendment unanimously reported by the Subcommittee on Research and Development of the House Committee on Armed Services. I reiterate this

is not my amendment, it is an amendment of the House Committee on Armed Services.

Mr. Chairman, this amendment deletes section 5(g), the concept of indexing.

I apologize to the gentleman from New York (Mr. BINGHAM) for bringing the matter up out of order but I was so concerned about this particular provision of the bill, and as I stated, I asked my technologist on the Research and Development Subcommittee staff just what the language of section 5(g) meant, "indexing." I asked witnesses who came before the committee about the subject of indexing and no one could satisfactorily explain it to me.

The gentleman states on page 18 of the report:

> Subsection (g) provides that the Secretary may, where appropriate, establish an indexing system providing for annual increases in the performance levels of goods and technology subject to license requirements under this section, in order that such requirements may be periodically removed as such goods and technology become obsolete. This provision is particularly applicable to computers.

Again, I want to know about this provision. I do not understand it. Why is it particularly applicable to computers, I would ask the distinguished gentleman from New York (Mr. BINGHAM).

Mr. Chairman, I have not been able to get an answer.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield to me?

Mr. ICHORD. I yield to the gentleman from New York.

Mr. BINGHAM. First of all, let me say, if the gentleman is puzzled by the word "indexing," I would point out that the text of the section that the gentleman would like to knock out of the bill does not use the word, "indexing." Indexing is sort of a shorthand way of referring to the process in which we are here interested, which is to have periodic removal from the list of goods and technology that no longer qualify as being necessary to control for export for national security reasons. That is all we are talking about. It is an authorizing section. It mandates nothing. As far as the gentleman's particular question is concerned, I thought it was generally understood—I certainly so understood it—that the technology of computers has been rapidly advancing, and what is an advanced computer today, 2 years from now may be old hat. That is all we are talking about.

Mr. ICHORD. That may be so, but one must take into consideration the level of our technology. One must take into consideration the level of technology of the potential adversary. How can the gentleman say with certainty, today, that a particular computer technology will be obsolete, say, 3 years from now?

Mr. BINGHAM. Mr. Chairman, all we here ask for is that where appropriate the Secretary issue regulations to provide for periodic renewal of the examination of the list. I should think the gentleman would agree that, as items become no longer critical, they should be taken off the list so the people over there do not have to bother with it.

Mr. ICHORD. Let me take the distinguished gentleman from New York through this bill. Let us go to page 10. The gentleman already has that authority. If that is all the gentleman was doing by this language I would be little concerned.

Let us refer to page 10 of the bill. I read this language:

> The Secetary shall issue regulations providing for continuous review of the list established pursuant to this subsection in order to carry out the policy set forth in section 3(2)(A) and the provisions of this section, and for the prompt issuance of such revisions of the list as may be necessary.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent Mr. ICHORD was allowed to proceed for 5 additional minutes.

Mr. ICHORD. Mr. Chairman, section 32(a) refers to controls for national security purposes.

Here the Secretary of Commerce has the authority for continuous review of the control list. He can take them off. Certainly we should not keep controls on piston engines, for example. I rather doubt if we should keep controls on just the ordinary jet engine. If you had a jet engine involving critical military technology, perhaps you should.

I thank the gentleman for his explanation. It makes me reiterate that I believe the Committee should support the House Committee on Armed Services in its unanimous reporting of this amendment.

Let me again point out to the Members, Mr. Chairman, the only place where we have a lead over our potential adversaries is in the field of technology, and particularly in the field of computer technology.

As the gentleman has explained, this indexing concept envisions the establishment of thresholds below which goods or technology would no longer be subject to controls.

Another example might be the case, as the gentleman stated, of a computer where a certain speed or memory capacity might be set as a threshold for, say, January 1, 1980. On that date all controls would be removed from computers. The gentleman says this is especially applicable to computers. Having a speed or capacity less than the established threshold.

Mr. Chairman, I submit this concept is flawed in two respects. First, it is an attempt to forecast technology in advance and predetermine the state of the art at a given time. I submit this is a very dangerous way to establish our export controls.

One cannot tell whether a particular technology, today, is going to be obsolete on January 1, 1980, or January 1, 1981. We already have the authority on page 10 to review the items on the control list. I think it particularly dangerous to proceed with such a vague, ambiguous control concept. Let us not fool around with computers where we certainly have a lead over the Soviet Union.

□ 1530

This is the only place that we have the lead. For the benefit of those Members who were not here when I submitted the first amendment, let us face it. In terms of numbers, we are out of the ball park. The gentleman from Florida (Mr. BENNETT) and the chairman of the full Committee on Armed Services who sit in front of me, know the numbers, they know we are outnumbered 7 to 1 in tanks. They know we are outnumbered 4 to 1 in aircraft. They know we are outnumbered 6 to 1 in artillery pieces. They know we are outnumbered 50 to 1 in chemical warfare. The only place where we have a lead is in technology, and again I reiterate, especially computer technology.

Let us not open up the gate and lose that particular lead; so on behalf of the Committee on Armed Services, I hope that the Committee will also adopt this amendment.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the amendment. Again, we are in substantial agreement that it is desirable for the list to be constantly reexamined so as to take off those items which need no longer be controlled.

This section, which is entirely permissive with the Secretary of Commerce, does not mandate anything. The purpose of it is to encourage setting up a system for taking items off the list, so that it will not be a case of items being taken off one by one or two by two, which never catches up with obsolescence.

The number of export license applications is increasing by about 20 percent per year. It is currently running at an annual rate of close to 80,000. This is causing all kinds of delays which our friends in the export industry have complained to all of us about.

Now, in order to encourage the administration to do a better job and a quicker job of taking items off the list that should no longer be on it, we have included this provision urging and authorizing the Secretary to set up a system of doing this in an orderly fashion.

Let me point out that in the provisions of the paragraph that we are talking about, if any goods or technology are proposed to be removed from the list pursuant to that system, any of the interested departments, including the Defense Department, can object. That takes the automaticity out of the process. That is in the second paragraph of subsection (g). There is no danger of anything happening automatically that the Defense Department disapproves of. They will have their opportunity. It just will encourage a better and more efficient system of taking items off the list that should no longer be on the list.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I would ask the distinguished gentleman from New York if the gentleman took testimony from the technologists as to how accurately they could predict the level of technology? This is my concern. Here we are going to try to predict the level say of computer technology in 1982.

Now, you have got to not only predict the level of our own technology, you have to predict the level of the adversaries, what the level of technology of the adversaries is going to be and what the technology of our allies will be.

The gentleman has brought up availability. How accurate can you be? That is my concern.

Mr. BINGHAM. Mr. Chairman, the testimony we had on this from industry in particular was that we can do it. We are proposing a similar system in COCOM. It is being discussed in COCOM currently.

Again I say, if DOD thinks it is going too fast or something is going to be taken off that should not be take off, DOD can object to it.

Mr. ICHORD. But DOD cannot stop it if they object to it. That is the question that I would ask the gentleman.

Mr. BINGHAM. Sure. The gentleman knows DOD has not been overridden by the Secretary of Commerce on any of these national security items.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding. I have basically a couple inquiries.

First, I think the gentleman said that this does not mandate the Secretary to do anything at all. My reading on line 17 says, "the latest such increase shall be removed from the list."

That seems to be mandatory. The word "shall" seems to be mandatory.

Second, I would give the gentleman a chance to respond to both these inquiries; in that same area, starting on line 15 it reads:

> Any such goods or technology which no longer meet the performance levels established by the latest such inquiries.

My problem there is that the latest such inquiries could very well be an increase in the technology solely within the United States of America. I think in order to protect, in order to give substance to the balance of the particular bill, particularly to the Ichord amendment, we have to make sure that we are not giving or not selling technology which may not be the latest here, but nevertheless, which may be two or three generations ahead of foreign technology, Soviet technology, if you will. If the gentleman would respond to those two inquiries.

Mr. BINGHAM. Mr. Chairman, I certainly would agree with the gentleman that what is obsolete here is not necessarily obsolete in the Soviet Union. Certainly the gentleman is correct about that.

The CHAIRMAN. The time of the gentleman from New York (Mr. BINGHAM) has expired.

(By unanimous consent, Mr. BINGHAM was allowed to proceed for 2 additional minutes.)

Mr. BINGHAM. Mr. Chairman, the answer to the first question the gentleman raises, about the word "shall" in line 17, is that that it refers to a system or set of regulations which the Secretary, under the first sentence of subsection (g), is authorized to establish. In other words, if the Secretary sets up this kind of a system, which we in the committee would hope that she would be able to do, then the removal of items in accordance with that system would occur, unless another Government agency objected.

Mr. COURTER. Mr. Chairman, my point, I believe, if the gentleman will yield further, is the fact that it will inevitably go into effect. The restraints would have to, therefore, be lifted, and the word "shall" is mandatory, provided, as the gentleman says, something else does not happen. The chances are perhaps that something else will not happen. The word "shall" therefore makes it mandatory and we have a problem, particularly when U.S. technology is advanced two or three stages beyond some foreign country's technology.

Mr. BINGHAM. Mr. Chairman, again let me say, the "shall" applies only if the Secretary has, pursuant to this paragraph, established the kind of system we are talking about, and that part of it is discretionary.

Mrs. HECKLER. Mr. Chairman, I move to strike the requisite number of words.

(Mrs. HECKLER asked and was given permission to revise and extend her remarks.)

Mrs. HECKLER. Mr. Chairman, I take this time to ask the distinguished chairman of the Subcommittee on International Economic Policy of the Committee on Foreign Affairs some questions because I want the legislative history and intent to be as clear as possible on this complex but important piece of legislation. And particularly this section of the bill.

Of course, I begin with the major premise which I believe every Member of this House accepts: that the national security, in a very literal sense, of our country, is the point of departure from which all of us operate. I certainly would not want to be a party to compromising our national security in any way, or in any manner, directly or indirectly. Nonetheless, within that context I would like to suggest that there is nothing of more import in economic terms—in transfer and exchange in the world today—than the computer. The computer is an important wave of the future; it travels at a breathtaking rate across all national and ideological barriers and boundaries. The technology of the computer can become obsolete, out of date, very, very quickly. That is what prompts my inquiry.

I wonder, Mr. Chairman, in view of the language of this particular section, what mechanism the gentleman and his committee colleagues considered when the requirements in the indexing provision in the section were adopted. They provide:

> In order to ensure that requirements for validated licenses and qualified general licenses are periodically removed as goods or technologies subject to such requirements become obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for changes—

And so forth.

My question is: How will the needs of our national security be ascertained? I would like to know what mechanism will be used to determine what or which particular licenses are obsolete from the point of view of national security? Did the gentleman have in mind relationship between those two?

Mr. BINGHAM. No; that would be up to the Secretary to determine and to propose such a system. I would not be qualified to do that myself. I doubt if many people here would be qualified to do that. It would be something that would be established pursuant to this authorization and, again, I would say in the operation of it, it would be subject to objection from the Department of Defense if that Department chose to object.

□ 1540

Mrs. HECKLER. Mr. Chairman, I want to be sure I understand: Your reply is that there would be consideration by and a determination from the Department of Defense as to whether or not national security interests were to be served?

Mr. BINGHAM. Absolutely.

Mrs. HECKLER. That is the Defense Department would decide if the technology had become obsolete from the point of view of national security; is that right?

Mr. BINGHAM. Of course, yes.

Mrs. HECKLER. So an operational precondition to the act of indexing as it could be implemented under this language would depend upon a judgment by the Secretary of Defense that the particular equipment had become obsolete and would not adversely affect our national security?

Mr. BINGHAM. That is correct.

Mr. ICHORD. Mr. Chairman, will the distinguished gentlewoman yield on that point?

Mrs. HECKLER. I am happy to yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I think the distinguished gentlewoman from Massachusetts (Mrs. HECKLER) has brought up a very crucial point and I want to direct the Members to the exception. We will recall that the gentleman from New Jersey talked about the mandatory language, "shall," in lines 16, 17, and 18. Now, let us look at the exception.

First, the approach of the committee was to mandate the indexing. Now they have brought in an exception approach, and it goes like this: "* * * unless, under such exceptions and under such procedures as the Secretary shall prescribe,"—meaning the Secretary of Commerce—"any other Government agency objects * * * that the goods or technology shall not be removed from the list."

That language gives the Secretary of Commerce the responsibility for determining whether this is critical military technology or not. That is my point. The person who should be doing this is the Secretary of Defense.

Now, they are all working in the interests of the United States of America, but the Secretary of Commerce dealt solely with trade. Let me point out again we are dealing here with export controls for the purpose of protecting the national security of the United States, and that should be the responsibility of the Secretary of Defense, not the Secretary of Commerce and not even the Secretary of

State. The Secretary of State should be responsible for foreign policy control, the Secretary of Commerce should be responsible for trade controls, but the Secretary of Defense should be the one who is responsible for protecting the military security and the national security interests of the United States. My God, let us start pinpointing responsibilities. This is a responsibility of the Congress to pinpoint executive responsibility. I think the gentlewoman has brought up a very crucial point.

Mrs. HECKLER. Mr. Chairman, I would like to respond to my colleague the gentleman from Missouri.

The CHAIRMAN pro tempore (Mr. McKay). The time of the gentlewoman from Massachusetts (Mrs. Heckler) has expired.

(On request of Mr. Bingham, and by unanimous consent, Mrs. Heckler was allowed to proceed for 3 additional minutes.)

Mrs. HECKLER. Mr. Chairman, it would seem to me that the section is capable of different interpretations, which is why I asked for this clarification.

In my view, the legislation before us would make major and necessary policy and procedural changes in the current export control process, a process which has been called "draconian and inflexible" by U.S. exporters. At the same time, the legislation will certainly preserve vital U.S. national security and foreign policy interests. The net result of H.R. 4034 will hopefully be the enhancement of legitimate U.S. export trade.

I say "hopefully," Mr. Chairman, because the utility of the reforms included in this legislation will be to a great extent dependent upon subsequent actions taken by both the Department of Commerce and the Department of Defense.

For example, H.R. 4034 requires the Secretary of Commerce to develop foreign availability criteria by regulation. A determination of foreign availability is a critical aspect of this legislation because such a determination can trigger the removal of complicated and time-consuming U.S. export controls thereby insuring that U.S. exporters will be competitive with their foreign counterparts.

It is my hope that the Commerce Secretary will insure that these regulations are developed as quickly as possible, and that the criteria set forth in those regulations will not be so stringent that they will be impossible to meet.

It is also my hope that the Department of Commerce will proceed expeditiously to reduce the list of unilaterally controlled items, especially in the area of scientific, industrial, and medical instruments. This is especially troublesome to exporters in my district because of the widespread incorporation of microprocessors in this type of equipment.

Let me illustrate why I raise these two points by one example. The Foxboro Co., which is located in my district, manufactures an infrared analyzer called the Foxboro-Wilks 801. This instrument is used in laboratories to measure the chemical composition of gas and other elements. The instrument contains an Intel 8080 microprocessor and, because of this, it is subject to U.S. unilateral export control licensing procedures.

Siemans, a West German company, manufactures a multipurpose gas chromotograph which competes directly with the Foxboro infrared analyzer. The Siemans product also contains a microprocessor, but the Government of West Germany permits Siemans to ship this product throughout the world without any export licensing restrictions.

Typically, it takes Foxboro 4 to 6 weeks to obtain U.S. Department of Commerce approval to export its infrared analyzer because of U.S. licensing requirements. Siemans, on the other hand, can ship its product immediately because it is confronted with no export licensing requirements. In this highly competitive world, a delay of 4 to 6 weeks in a company's ability to deliver a product can mean the loss of the sale.

I should note that the microprocessor contained in the Foxboro infrared analyzer is a "dedicated" microprocessor. This means that it cannot be reprogramed. It should also be noted that the value of the microprocessor represents only a minor portion of the value of the entire instrument.

Representatives from the Scientific Apparatus Makers Association, of which Foxboro is a member, recently met with officials in the Department of Commerce to discuss this problem, and I understand that the Department has begun to look into it. I hope that the Department will make rapid progress in resolving this type of situation. By eliminating these types of products which contain dedicated microprocessors from the U.S. unilateral control list, licensing officers in the Commerce Department and those who review these matters at the Defense Department will be free to turn their attention to more critical areas of legitimate national security concern.

I ask the chairman of the subcommittee of the Committee on Foreign Affairs as to whether or not in the very operation of the phrase, "national security," the determination of obsolescence would necessarily have to come from the Department of Defense, and I would again ask the chairman of the subcommittee as to whether or not he reads the section as requiring that approach in agreeing on other items of technology not within the immediate needs of national security or within the preferred list for commerce or commercial approach. I would ask the chairman to respond to that inquiry.

Mr. BINGHAM. Mr. Chairman, I can respond in this way: That the responsibility for setting up the system so that we will be sure that items that have become obsolete from the point of view of national security are at least looked at in terms of whether they should be taken off the list is provided. That is done so as to allow those concerned with licensing to focus on the important items, on the items that are important in national security.

That responsibility in the first sentence lies with the Secretary of Commerce to propose regulations to accomplish that. If he or she does that and then items are proposed to be removed from the list in accordance with that section, the Secretary of Defense can, if he or she chooses, object to their removal from the list.

The advantage of this is that instead of leaving the situation exactly as it has been in the past, with items remaining for years on the list that should not be on the list, there is here a proposed system to make sure that the unimportant items are taken off. If we knock this out of the bill, we leave it just the way it has been, with an endless number of items being considered that should no longer be considered, simply because the bureaucrats have not enough time to get around to taking them off.

Mrs. HECKLER. Mr. Chairman, I thank the gentleman for his response.

I would say that in this area we have two interests, the first being the overriding one of national security and the second one that of being realistic in this ever evolving age of international exchange in which the computer is exchanged and copied by foreign governments and foreign organizations and foreign industries.

Just recently I have been informed that the People's Republic of China purchased over $100 million worth of computer technology from a French firm. I think, that even as we meet the needs of our national security, it is very important as a matter of overall economic export policy and American business interests—out balance of payments and American jobs to allow American firms to complete and to promote their products. When national security matters are not at issue it is important that we in no way hobble or harm the business interests in our country who have a good product to sell abroad.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think the discussion that has just gone on indicates that there is some lack of clarity about the amendment and just exactly what it does.

The provision in the legislation, especially as compared to the original bill that was introduced, does leave some flexibility on when indexing may be instituted. However, once a category is agreed on for using indexing, it becomes mandatory that those items be dropped from the control list unless, under certain circumstances, another Government agency objects. Even that is not clear because the Secretary of Commerce still retains the authority to override any such objection. The provision goes on to say: If certain performance levels are reached, no matter what the Secretary determines might be the situation for an individual case, he would have to remove it.

Mr. Chairman, I do not suggest that if we should get into such a situation, the Secretary of Commerce, if he or she felt there would be a leak in our military critical technologies overseas, would go ahead with that.

So one of three things is going to happen: First, either indexing will not be used at all, which is certainly going to come as a great shock and surprise to those supporting this kind of provision; or second, we will get trapped, which could be absolutely disastrous, and we will export some technology that we do not want to export; or third, the Secretary is going to violate the law.

I share the subcommittee chairman's concern about this problem, but I do support the amendment. I would say, however, that there might be a better way of doing this. I think there should be some formalized way of removing items from the list, and I think we should perhaps simply direct the Secretary to do so by regulation. But that choice is not before us at the present time, so I do rise in support of the amendment.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

(Mr. CONTE asked and was given permission to revise and extend his remarks.)

Mr. CONTE. Mr. Chairman, I rise in opposition to the Ichord amendment and urge support of the present language regarding indexing in H.R. 4043. I feel that the present language makes an important first step in alleviating the competitive disadvantage under which many high technology industries have been trying to operate for many years. The indexing provision does not in any way jeopardize the national security of the United States; rather it allows for removal of needless redtape and control on exports which have been determined to have become "obsolete with respect to the national security of the United States."

First, let me emphasize that the bill language does not mandate the indexing of certain goods after the performance levels of such goods have risen; it permits this indexing. The Secretary of Commerce, whom we assume will be working in close coordination with the Secretary of Defense and Secretary of State, is allowed to periodically reevaluate requirements for validated licenses and qualified general licenses for high technology goods.

As Members of the House know, the concept of indexing high technology items has been agreed to by COCOM, the informal trade group of the United States, our NATO Allies—minus Iceland—and Japan. COCOM already provides for periodic review of performance parameters of goods. The indexing provision in this bill merely provides for a more orderly, comprehensive reassessment of overall product technology. If the United States, due to slow reevaluation of national security requirements, fails, to allow the exports of high technology goods which in no way jeopardize our security, then we are hurting our balance of trade and our competitive edge in a market area that is very important to our economy today and looks as though it will become more and more crucial in years to come. I might add that not only are we hurting our own balance of trade, we are actively helping other nations, such as France, Japan, and West Germany, who of course will not hesitate to step into any market where there is a profit to be made. And I need not remind the distinguished gentleman from Missouri, or any of the Members of the House, of the disastrous negative situation our economy is in as the result of the horrible balance of payments situation we face.

Finally, I would like to address in some detail the incorrect notion that indexing of goods is incompatible with the national security of our Nation. The argument has been set forth that the phrase "obsolete with respect to the national security of the United States" is vague. I concur with this statement. The notion of a product becoming obsolete is purposely left vague so that the Secretary of Commerce, in coordination with the Secretary of Defense and Secretary of State, can analyze our defense needs. There is no question that a product may be outdated on the U.S. market, but might be anything but obsolete in terms of a Communist-bloc country. Only if the Secretary of Commerce, after very careful analysis, deems that a product may be sold to a potentially unfriendly country at no risk to the American security will it then be indexed for trade to those countries. Furthermore, as I stated earlier, the provision in this bill is merely permissive, not mandatory. The Secretary of Commerce does not have to index goods at all.

In summary, indexing will help give businesses the competitive edge in international trade that presently, in many cases, they lack. It will permit the sale abroad of high technology items which are becoming a more and more important part of our economy. At the same time, this provision is worded in such a way that indexing will only take place after a rigorous review of our own national security needs. For these reasons, I urge defeat of the amendment of the gentleman from Missouri, and the retention of the current bill language.

Mr. COURTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Ichord amendment.

Mr. Chairman, I will not take the usual 5 minutes, since I have already spoken on this particular amendment.

I think this is a very crucial amendment, because if it is not adopted, it basically, according to my reading of page 16, lines 8 through 23, would otherwise remove the effect and the thrust of the prior Ichord amendment which passed this House so overwhelmingly less than 45 minutes ago.

The thing about which I am most concerned is the language with regard to "the latest such increase," to the very latest technology. I think this particular bill, with the last Ichord amendment, intended to protect the United States from aiding and abetting unwillingly those enemies and those people who would make us their adversaries by making sure we do not sell military critical technology to other countries. That particular phraseology is particularly important.

The thrust of the first Ichord amendment had nothing to do with the latest technology, because, very truly, it does not have to be the latest technology that would give critical military technology to those people who would oppose us in our foreign policy; it could be not the latest advance or the second-to-the-latest advance or the third-to-the-latest advance.

So, Mr. Chairman, I think, therefore, this particular paragraph must be removed in order to give free play and emphasis to the Ichord amendment that passed so overwhelmingly just a few moments ago.

□ 1550

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ICHORD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 206, not voting 27, as follows:

[Roll No. 456]

AYES—201

Abdnor	Flippo	McClory
Addabbo	Fountain	McDonald
Andrews, N. Dak.	Fowler	McEwen
Archer	Fuqua	McKay
Ashbrook	Gaydos	Marriott
Atkinson	Gephardt	Martin
Badham	Gilman	Mathis
Bafalis	Ginn	Michel
Bailey	Gonzalez	Miller, Ohio
Barnard	Goodling	Minish
Bauman	Gore	Mitchell, N.Y.
Beard, Tenn.	Gramm	Mollohan
Bennett	Grassley	Montgomery
Bereuter	Grisham	Moore
Bethune	Guarini	Moorhead, Calif.
Bevill	Gudger	Mottl
Biaggi	Guyer	Murtha
Boner	Hagedorn	Myers, Ind.
Bouquard	Hall, Tex.	Nichols
Bowen	Hammer-schmidt	Pashayan
Breaux	Hance	Paul
Brinkley	Hansen	Pickle
Brooks	Harsha	Quayle
Broomfield	Hefner	Quillen
Brown, Ohio	Heftel	Rahall
Broyhill	Hightower	Regula
Burgener	Hillis	Rhodes
Butler	Hinson	Rinaldo
Byron	Holland	Roberts
Campbell	Holt	Robinson
Carney	Hopkins	Rose
Chappell	Hubbard	Roth
Clausen	Hutto	Rousselot
Cleveland	Hyde	Royer
Coleman	Ichord	Rudd
Collins, Tex.	Ireland	Runnels
Coughlin	Jeffries	Santini
Courter	Jenkins	Satterfield
Crane, Daniel	Jones, N.C.	Sawyer
Crane, Philip	Jones, Tenn.	Schroeder
Daniel, Dan	Kazen	Schulze
Daniel, R. W.	Kelly	Sebelius
Davis, Mich.	Kemp	Sensenbrenner
Davis, S.C.	Kindness	Shelby
de la Garza	Kramer	Shumway
Devine	LaFalce	Shuster
Dickinson	Lagomarsino	Skelton
Dornan	Latta	Slack
Dougherty	Leach, La.	Smith, Nebr.
Duncan, Oreg.	Leath, Tex.	Snyder
Duncan, Tenn.	Lee	Solomon
Edwards, Ala.	Lent	Spence
Edwards, Okla.	Levitas	Staggers
Emery	Lewis	Stangeland
English	Livingston	Stenholm
Erlel	Loeffler	Stratton
Evans, Del.	Long, Md.	Symms
Evans, Ga.	Lott	Taylor
Ferraro	Lujan	Thomas
Fish	Lungren	Treen

Trible	Whitley	Winn
Volkmer	Whittaker	Wolff
Walker	Whitten	Wydler
Wampler	Williams, Ohio	Wylie
Watkins	Wilson, Bob	Yatron
White	Wilson, C. H.	Young, Fla.
Whitehurst	Wilson, Tex.	Zeferetti

NOES—206

Akaka	Florio	Nedzi
Albosta	Foley	Nelson
Alexander	Ford, Mich.	Nolan
Ambro	Ford, Tenn.	Nowak
Anderson, Calif.	Forsythe	O'Brien
	Frenzel	Oakar
Andrews, N.C.	Frost	Oberstar
Annunzio	Garcia	Obey
Anthony	Gibbons	Ottinger
Ashley	Glickman	Panetta
Aspin	Gradison	Patten
AuCoin	Gray	Patterson
Baldus	Green	Pease
Barnes	Hall, Ohio	Pepper
Bedell	Hamilton	Perkins
Bellenson	Hanley	Petri
Benjamin	Harkin	Peyser
Bingham	Harris	Preyer
Blanchard	Hawkins	Pritchard
Boggs	Heckler	Pursell
Boland	Hollenbeck	Railsback
Bolling	Holtzman	Rangel
Bonker	Horton	Ratchford
Brademas	Howard	Reuss
Brodhead	Huckaby	Richmond
Brown, Calif.	Hughes	Ritter
Buchanan	Jacobs	Rodino
Burlison	Jeffords	Roe
Burton, John	Jenrette	Rosenthal
Burton, Phillip	Johnson, Calif.	Rostenkowski
Carr	Johnson, Colo.	Russo
Cavanaugh	Jones, Okla.	Scheuer
Clay	Kastenmeier	Seiberling
Clinger	Kildee	Shannon
Coelho	Kogovsek	Sharp
Collins, Ill.	Kostmayer	Simon
Conable	Leach, Iowa	Smith, Iowa
Conte	Lehman	Snowe
Conyers	Leland	Solarz
Corcoran	Lloyd	Spellman
Corman	Long, La.	St Germain
Cotter	Lowry	Stack
D'Amours	Luken	Stanton
Danielson	Lundine	Stark
Dannemeyer	McCloskey	Stewart
Daschle	McDade	Stockman
Deckard	McHugh	Stokes
Dellums	McKinney	Studds
Derrick	Maguire	Swift
Dicks	Markey	Synar
Dingell	Marks	Tauke
Dixon	Marlenee	Thompson
Donnelly	Matsui	Traxler
Downey	Mattox	Udall
Drinan	Mavroules	Ullman
Early	Mazzoli	Van Deerlin
Eckhardt	Mica	Vanik
Edgar	Mikulski	Vento
Edwards, Calif.	Mikva	Walgren
Erdahl	Miller, Calif.	Waxman
Erlenborn	Mineta	Weaver
Evans, Ind.	Moakley	Weiss
Fary	Moffett	Williams, Mont.
Fascell	Moorhead, Pa.	Wirth
Fazio	Murphy, N.Y.	Wolpe
Fenwick	Murphy, Pa.	Wright
Findley	Myers, Pa.	Yates
Fisher	Natcher	Young, Mo.
Fithian	Neal	Zablocki

NOT VOTING—27

Anderson, Ill.	Dodd	Murphy, Ill.
Applegate	Flood	Price
Beard, R.I.	Giaimo	Roybal
Bonior	Gingrich	Sabo
Carter	Goldwater	Steed
Cheney	Lederer	Stump
Chisholm	McCormack	Vander Jagt
Derwinski	Madigan	Wyatt
Diggs	Mitchell, Md.	Young, Alaska

□ 1600

The Clerk announced the following pairs:

On this vote:

Mr. Carter for, with Mr. Murphy of Illinois against.

Mr. Cheney for, with Mr. Lederer against.

Mr. Young of Alaska for, with Mr. Beard of Rhode Island against.

Mr. Gingrich for, with Mr. Mitchell of Maryland against.

Mr. Goldwater for, with Mrs. Chisholm against.

Mr. LONG of Maryland and Mr. VOLKMER changed their votes from "no" to "aye."

Mr. ALEXANDER changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to section 104?

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio. Page 8, add the following after line 24:

"(3) In issuing rules and regulations to carry out this section, particular attention shall be given to the difficulty of devising effective safeguards to prevent a country that poses a threat to the security of the United States from diverting critical technologies to miltiary use, the difficulty of devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the reexport of critical technologies from other countries to countries that pose a threat to the security of the United States. Such regulations shall not be based upon the assumption that such effective safeguards can be devised.

□ 1610

(Mr. MILLER of Ohio asked and was given permission to revise and extend his remarks.)

Mr. MILLER of Ohio. Mr. Chairman, to successfully implement the critical technologies approach endorsed by this bill it is imperative that we correct an existing weakness in the current system. One such loophole concerns so-called end-use statements and safeguards to prevent the diversion of technology for military purposes once it has been transferred to a controlled nation like the Soviet Union.

It is often current practice to require nations receiving American technology to sign an end-use statement agreeing that the transfer of goods or technology will not be diverted for military uses. The problem with end-use statements and so-called safeguards is that they are only cosmetic in nature and do not work. As the Senator from the State of Washington recently stated on the floor of the other body, they provide no protection against diversion of critical technologies and goods since, by definition, they consist of know-how or products which transfer know-how for which safeguards against diversion cannot be devised. The diversion of know-how cannot ordinarily be detected or prevented since it consists of the transfer of knowledge from one person to another. Once the transfer of such critical know-how occurs, it is lost forever.

Let me set up a hypothetical situation to illustrate the need for this amendment. Let us assume there is a man whom you know to be a potential adversary, and this person is holding a baseball in one hand and a grenade in the other. Would you teach this potential adversary how to throw the baseball; in other words, give him the know-how, and then pray to God that he will not use this know-how to throw the grenade? I hope not. But that is exactly what this country is doing; a promise not to throw the grenade is not enough. In dealing with governments like the Soviet Union, we must assume that if the technology to be exported can be diverted for military uses that it will be diverted for military uses. And as a result, a license application should not be approved on the basis "end-use statements" and "safeguards."

In light of the Kama River truck plant incident, it would be totally naive for the United States to think that safeguards are an effective mechanism in preventing diversion. If the Soviets want to divert the technology for direct military purposes, they will do so, like they have done with the military truck engines coming out of the Kama River.

This amendment provides that rules and regulations for the control of critical technologies and goods reflect the difficuties associated with end-use statements and safeguards. The amendment also requires that effective measures be taken to prevent the re-export of critical goods and technologies to potential adversary nations when we export them to friendly nations, which include most Third World countries as well as our allies in COCOM.

An amendment such as this was passed in the other body by unanimous consent, and met with the approval of the Commerce Department official monitoring the bill's debate on July 21 of this year.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding and I rise in support of the amendment.

Let me take this opportunity of thanking the gentleman for all of the work he has put in in tightening up this bill and making it a very meaningful bill.

Mr. MILLER of Ohio. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. Yes, I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I would like to also commend the gentleman for all of his efforts on behalf of this bill and trying to improve it. I would like to support the amendment as well. I think it merely makes explicit what has been apparent from hearings on export controls, and that is, as the gentleman has already pointed out, safeguards cannot be devised to prevent the diversion of technology if someone is really determined to get that technology.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio has expired.

(At the request of Mr. LAGOMARSINO and by unanimous consent Mr. MILLER of Ohio was allowed to proceed for 2 additional minutes.)

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield further?

Mr. MILLER of Ohio. I yield to the gentleman from California.

Mr. LAGOMARSINO. The gentleman's

amendment, of course, provides that rules and regulations be developed in such a way as to prevent reliance on ineffective safeguards as a means of countering diversion of technology. I think it is something that needs to be in the bill. As the gentleman points out, the other body included very similar language in its version of this bill, and I hope it is adopted.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I want to commend the gentleman in the well, the gentleman from Ohio, for offering this amendment. I know the gentleman from Ohio, along with the gentleman from New York (Mr. WOLFF), have worked long and hard in this area. I would hope that the gentleman from New York (Mr. BINGHAM) would accept the amendment of the gentleman from Ohio.

This amendment, I would point out, might well get rid of the can of worms, the so-called shambles the Director testified about before the House Armed Services Committee.

But we are going to have this problem if we do not do something about it. We are going to have it with us for years to come. I would cite for the Members of the House the Kama River project. I know that the gentleman from Ohio is familiar with the Kama River project.

I think it is absolutely reprehensible when NATO is so short, extremely short of 5-ton trucks that we not only export trucks, we export a whole turnkey factory to the Soviet Union at Kama River, the largest truck plant in the world, and which has definitely produced trucks that go into the Soviet military.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio has again expired.

(At the request of Mr. ICHORD and by unanimous consent Mr. MILLER of Ohio was allowed to proceed for 3 additional minutes.)

Mr. ICHORD. If the gentleman will continue to yield, it has been proven beyond a doubt that that truck plant, the Kama River truck plant has been diverted to military uses.

Now, what can we do? It is true that there were no end-use restrictions placed upon the Kama River turnkey plant. That was the problem. No end-use restriction. But certainly somebody should have been thinking about end-use restrictions if we are going to transfer a whole turnkey factory. Again, on top of that, someone should be thinking about how we are going to enforce these end-use restrictions. Are we going to deny them support? This is what the bureaucracy should be directing their attention to, and this is what the amendment of the gentleman from Ohio calls for. I hope that the manager of the bill will accept the amendment in order to get rid of the shambles that we now have in the administration of the Export Administration Act.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. Yes, I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I also want to commend the gentleman in the well. I know we have worked together with two distinguished members of the majority for over a year on this reexport problem. The whole nightmare situation in Europe of these critical materials leaking like a sieve behind the Iron Curtain cannot be overemphasized.

When I first met with COCOM members in Europe 2½ years ago they explained to me that people will find statements under the COCOM agreements that a third nation will not have access to materials that are stacked up in warehouses, digital computing equipment, sensitive transistorized backup hardware and software.

□ 1620

Then, they go back a month later and half the warehouses are empty. "Sixty Minutes," the Nation's No. 1 rated show, which is always in the top five—it says something about the viewing habits of the American people that this hard-hitting factual show outdraws all the situation comedies and adventure shows—"Sixty Minutes" wanted to do a long segment on the export control problem, and found out that it is just too difficult to film. All they have is people describing how bad the problem is, or they can film a full warehouse and come back a few months later and show the same warehouse empty.

In spite of the television difficulties of filming this, we in Congress should certainly be aware of what Mike Wallace and his producer, Barry Lando, are aware of, and should support the gentleman's amendment. I would hope that the distinguished chairman, the gentleman from New York (Mr. BINGHAM) would accept this amendment in its totality.

Mr. MILLER of Ohio. I thank the gentleman from California.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the amendment.

I do so with some reluctance, because I know of the great deal of work that the gentleman from Ohio has given to this topic. The committee and the administration both are opposed to this amendment because, in essence, it appears to be an amendment that is against safeguards. I ask the question: How can you be against safeguards?

We are not suggesting, nobody suggests, that these safeguards are absolute or that they will totally prevent the diversion of items to an unintended use. But as the gentleman from Missouri (Mr. ICHORD) has just pointed out, the Kama River deal has been criticized, and maybe rightly, by many of these same people because no end use requirements were incorporated in the deal. When President Nixon and Secretary Kissinger decided to go ahead with the exports to the Kama River plant, they deliberately did not put in any provisions to prevent the diversion of the products of that plant.

So, what we are talking about here is safeguards in the sense of an effort to deter the misuse of the products that we export to the Soviet Union and to other Communist countries. As I say, there is no way in which safeguards can absolutely prevent diversions, but they are a useful device to assist in the process of reducing the degree to which diversions occur. In fact, if this amendment is adopted, it might very well discourage the administration from using safeguards or end use requirements, and that is certainly not the intention. I am sure, of the author of the amendment. But, that might be the result.

One of the areas where end use safeguards are used, and used effectively, is in the utilization of computers, where the agreements provide that the vendors of the computers have access, recurrent or constant access, to the operation of the computers to see that they are used for the purposes for which they are sold. So, safeguards are a necessary and beneficial part of the total process of trying to see that we have exports to the Soviet Union that are beneficial to our industry, but that do not assist the military potential of the Soviet Union.

This amendment does not prohibit them, but the whole effect of the amendment is negative. It would discourage the use of safeguards, and I urge a negative vote on the amendment.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I will be glad to yield.

Mr. BONKER. As it relates to the Kama River case and the statement on the question of other safeguards, we have access to the computer there, the results of which gave us access to the facility.

Mr. BINGHAM. That is correct, yes.

Mr. COURTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding. In reply to the chairman's remarks concerning safeguards and end-use statements, I would like to state that the amendment will not stop the end-use statements or safeguards. The amendment wants the Commerce Department not to rely on a tag that will be hanging on an article that says, "We will sell you this article if you sign this tag stating that you will not use it for military uses, and use it back against us."

We do not want someone relying on a statement, because if it can be used for military use, and it goes to controlled nations, they will use it for military use. We are conveying the message that, in issuing rules and regulations to carry out this section, particular attention shall be given to the difficulty of devising effective safeguards to prevent a country that poses a threat to the security of the United States from diverting a critical technology to military use.

We are giving a warning. We certainly need this section, and safeguards and end-use statements can certainly be used, but through the legislative process—we want the administration to know that end-use statements are not the items that we should rely on completely in order to turn over our technology to some other nation that could, in time, use it back against us.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I

thank the gentleman for yielding. Does the gentleman know of any case in which a license was granted in which safeguards were included, and it then turned out that the safeguards were useless and the material was misused or diverted? Does the gentleman know of any such case, bearing in mind that in the Kama River case the majority of the exportation contained no end-use restrictions?

Mr. MILLER of Ohio. In the Kama River case there is still a dispute as to whether there was an end-use certificate as such, or understanding of an end-use certificate. I would ask the gentleman, whenever we have sent articles on the basis of end-use would the gentleman assure the committee that not one item has been diverted?

All we want to do is to have our administration be alert and aware that this is not the solution to solving our problem of transferring our technology.

We do not just want an end-use statement signed, and then say, "Yes, you can have it; there it is."

There is no assurance whatsoever once it arrives, that it will not be turned over for military use.

Mr. BINGHAM. Will the gentleman yield briefly further?

Mr. COURTER. I will be happy to yield to the gentleman from New York.

Mr. BINGHAM. As far as Kama River is concerned, I have read all those documents in the testimony. All I can say is that if there was an intention to provide end-use restrictions, they did a hell of a bad job. As the gentleman from Missouri just stated, there really were no end-use restrictions. The best they could come up with was some vague understanding. There was not anything in the documents to show that there were end-use restrictions.

But, I agree with the gentleman that safeguards are not absolute. My purpose in opposing this amendment is that the amendment will discourage the use of safeguards, and that seems to be cutting off the nose to spite the face.

Mr. MILLER of Ohio. That is the main purpose of the amendment, to attempt to show the administration that the safeguards are not there when an end-use statement is signed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The question was taken; and on a division (demanded by Mr. MILLER of Ohio) there were—ayes 20, noes 24.

Mr. MILLER of Ohio. Mr. Chairman, I demand a recorded vote, and pending that I make a point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

A quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears. Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1640

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Ohio (Mr. MILLER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 271, noes 138, not voting 25, as follows:

[Roll No. 457]

AYES—271

Abdnor	Erlenborn	Lee
Addabbo	Ertel	Lent
Akaka	Evans, Del.	Levitas
Albosta	Evans, Ga.	Lewis
Anderson, Calif.	Evans, Ind.	Livingston
Andrews, N.C.	Ferraro	Lloyd
Andrews, N. Dak.	Findley	Loeffler
Anthony	Fish	Long, Md.
Archer	Fithian	Lott
Ashbrook	Florio	Lujan
Atkinson	Fountain	Luken
Badham	Fowler	Lungren
Bafalis	Frost	McClory
Bailey	Fuqua	McCloskey
Bauman	Gaydos	McDade
Beard, Tenn.	Giaimo	McDonald
Benjamin	Gilman	McEwen
Bennett	Goldwater	McKay
Bereuter	Goodling	Madigan
Bethune	Gore	Markey
Biaggi	Gradison	Marks
Boland	Gramm	Marlenee
Boner	Grassley	Marriott
Bouquard	Grisham	Martin
Bowen	Guarini	Mathis
Breaux	Gudger	Mattox
Brinkley	Guyer	Mazzoli
Broomfield	Hagedorn	Mica
Brown, Ohio	Hall, Tex.	Michel
Broyhill	Hammer-schmidt	Miller, Ohio
Buchanan	Hance	Mitchell, N.Y.
Burgener	Hanley	Mollohan
Butler	Hansen	Montgomery
Byron	Harsha	Moore
Campbell	Heckler	Moorhead, Calif.
Carney	Hefner	Mottl
Chappell	Heftel	Murphy, N.Y.
Clausen	Hightower	Murtha
Cleveland	Hillis	Myers, Ind.
Clinger	Hinson	Natcher
Coelho	Hollenbeck	Neal
Coleman	Holt	Nelson
Collins, Tex.	Hopkins	Nichols
Conte	Horton	Nowak
Corcoran	Howard	O'Brien
Coughlin	Hubbard	Panetta
Courter	Huckaby	Pashayan
Crane, Daniel	Hughes	Paul
Crane, Philip	Hutto	Pepper
D'Amours	Hyde	Perkins
Daniel, Dan	Ichord	Petri
Daniel, R. W.	Ireland	Peyser
Dannemeyer	Jeffries	Pickle
Daschle	Jenkins	Preyer
Davis, Mich.	Jenrette	Pursell
Davis, S.C.	Johnson, Colo.	Quayle
de la Garza	Jones, N.C.	Quillen
Deckard	Jones, Okla.	Rahall
Devine	Jones, Tenn.	Railsback
Dickinson	Kazen	Regula
Dicks	Kelly	Rhodes
Dornan	Kemp	Rinaldo
Dougherty	Kindness	Ritter
Duncan, Oreg.	Kostmayer	Roberts
Duncan, Tenn.	Kramer	Robinson
Edwards, Ala.	LaFalce	Roe
Edwards, Okla.	Lagomarsino	Rose
Emery	Latta	Rostenkowski
English	Leach, Iowa	Roth
Erdahl	Leach, La.	Rousselot
	Leath, Tex.	Royer
Rudd	Staggers	Wampler
Runnels	Stangeland	Watkins
Russo	Stanton	Weaver
Santini	Steed	White
Satterfield	Stenholm	Whitehurst
Sawyer	Stockman	Whitley
Schroeder	Stratton	Whittaker
Schulze	Symms	Whitten
Sebelius	Synar	Williams, Mont.
Sensenbrenner	Tauke	Winn
Sharp	Taylor	Wolf
Shelby	Thomas	Wyatt
Shumway	Traxler	Wydler
Shuster	Treen	Wylie
Slack	Trible	Yates
Smith, Nebr.	Ullman	Yatron
Snowe	Van Deerlin	Young, Fla.
Snyder	Vander Jagt	Young, Mo.
Solomon	Walgren	Zeferetti
Spence	Walker	

NOES—138

Alexander	Fary	Murphy, Ill.
Ambro	Fascell	Murphy, Pa.
Annunzio	Fazio	Myers, Pa.
Ashley	Fenwick	Nedzi
Aspin	Fisher	Nolan
AuCoin	Flippo	Oakar
Baldus	Ford, Tenn.	Oberstar
Barnard	Forsythe	Obey
Barnes	Frenzel	Ottinger
Bedell	Garcia	Patten
Beilenson	Gephardt	Patterson
Bevill	Gibbons	Pease
Bingham	Ginn	Pritchard
Blanchard	Glickman	Rangel
Boggs	Gonzalez	Ratchford
Bolling	Gray	Reuss
Bonior	Green	Richmond
Bonker	Hall, Ohio	Rodino
Brademas	Hamilton	Rosenthal
Brodhead	Harkin	Scheuer
Brooks	Harris	Seiberling
Brown, Calif.	Hawkins	Shannon
Burlison	Holtzman	Simon
Burton, John	Jacobs	Skelton
Burton, Phillip	Jeffords	Smith, Iowa
Carr	Johnson, Calif.	Solarz
Cavanaugh	Kastenmeier	Spellman
Chisholm	Kildee	St Germain
Clay	Kogovsek	Stack
Collins, Ill.	Lehman	Stark
Conable	Leland	Stewart
Conyers	Long, La.	Stokes
Corman	Lowry	Studds
Danielson	Lundine	Swift
Dellums	McHugh	Thompson
Derrick	McKinney	Udall
Dingell	Maguire	Vanik
Dixon	Matsui	Vento
Dodd	Mavroules	Volkmer
Donnelly	Mikulski	Waxman
Downey	Mikva	Weiss
Drinan	Miller, Calif.	Williams, Ohio
Early	Mineta	Wirth
Eckhardt	Moakley	Wolpe
Edgar	Moffett	Wright
Edwards, Calif.	Moorhead, Pa.	Zablocki

NOT VOTING—25

Anderson, Ill.	Foley	Roybal
Applegate	Ford, Mich.	Sabo
Beard, R.I.	Gingrich	Stump
Carter	Holland	Wilson, Bob
Cheney	Lederer	Wilson, C. H.
Cotter	McCormack	Wilson, Tex.
Derwinski	Minish	Young, Alaska
Diggs	Mitchell, Md.	
Flood	Price	

□ 1650

The Clerk announced the following pairs:

On this vote:

Mr. Bob Wilson for, with Mr. Lederer against.

Mr. Derwinski for, with Mr. Beard of Rhode Island against.

Mr. Carter for, with Mr. Mitchell of Maryland against.

Messrs. BUTLER, PREYER, D'AMOURS, PEPPER, and WEAVER changed their vote from "no" to "aye."

Ms. HOLTZMAN changed her vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above reported.

□ 1700

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I rise at this point in the bill to inquire of the chairman whether my understanding is correct that the imposition of constraints and criteria upon the use of export controls for foreign policy purposes would not, and is not intended by the committee, in any way to tie the hands of the President in time of crisis.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, the gentleman is correct. H.R. 4034 would not prevent the President from imposing export controls quickly in response to unpredictable foreign policy crises, such as attempts to develop a nuclear weapons capability, support for international terrorism, extreme violations of human rights, or imminent threats of regional military conflict. Nor would it prevent continuation of such controls once imposed. On the contrary, it encourages the President to make decisions on export licenses without excessive delay. Pursuant to section 112, H.R. 4034 would not limit authority to control items of significance for nuclear explosive purposes. For such items the special procedures called for by section 309(c) of the Nuclear Non-Proliferation Act of 1978 would apply. With respect to other items:

(1) the criteria listed in section 6(b) and referred to in section 6(e)(2) are factors to be considered but are not conditions which must be met—in any given situation, one, several, or all of them might be irrelevant;

(2) consultation with industry called for by section 6(c) and referred to in section 6(e)(3) might not be appropriate in some circumstances;

(3) reasonable efforts to achieve the purposes of controls through alternative means, as called for by section 6(d) and referred to in section 6(e)(4), need not delay the imposition of controls in a crisis. Under urgent circumstances there may be few, if any, feasible alternative means to pursue.

(4) the President would have discretion to determine what steps were feasible to secure the cooperation of other governments per section 6(h).

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman from New York (Mr. BINGHAM) and I yield back the balance of my time.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN: Page 22, insert the following after line 2:

"(1) SUBMISSION OF RECORDS TO CONGRESS.—(1) In any case in which any committee or subcommitte of either House of Congress which has jurisdiction over domestic or foreign policies relating to export trade or national security requests the Secretary, the Secretary of Defense, or any Federal department or agency, to submit a record with respect to any action taken under this Act concerning the administration of export controls for national security purposes, the Secretary, Secretary of Defense, or Federal department or agency, as the case may be, shall so submit such record within ten days after the request is made.

"(2) In order to comply with any request described in paragraph (1), the Secretary, Secretary of Defense, or any other Federal department or agency participating in any action taken pursuant to this Act (including the approval or disapproval of a validated license application) concerning the administration of export controls for national security purposes, shall retain, for at least five years after the action is completed, a complete record with respect to such participation, including the following, as appropriate:

"(A) With respect to a technology or good involved in the action—

"(i) the technical facts upon which the action was based, including (but not limited to) the nature and strategic importance of the technology or good, and the analysis of such facts,

"(ii) the extent of the technological lead of the United States,

"(iii) foreign availability of such technology or good, and

"(iv) the safeguards against the transfer of the technology involved to a controlled country.

"(B) Material factual and policy issues.

"(C) Each department or agency which participated in the action and the recommendations of such department or agency with respect to the action.

"(D) Such other information as is necessary and appropriate to an understanding of the action.

"(3) For purposes of this subsection, the term 'controlled country' means any communist country as defined in section 620(f) of the Foreign Assistance Act of 1961.".

Mr. DORNAN. Mr. Chairman, I want to applaud the efforts of the distinguished gentleman from New York (Mr. BINGHAM) for including a section in H.R. 4034 requiring the keeping of records pertaining to applications for export licenses. This legislative proposal is excellent so far as it goes; but in all respect I do not think it goes far enough.

The language of H.R. 4034 pertains only to license applications. What are more important, from the standpoint of general policy, are the profesisonal and administrative decisions as to how and why certain goods and technologies are controlled under this act. My amendment provides for a complete set of records, specifying the technical, strategic, and foreign policy considerations which entered into the granting or denial of licenses. My amendment mandates the maintenance of those records for at least 5 years, and also provides for relevant congressional committee acquisition of those records with in a period of 10 days of a committee request.

The object of my amendment is to simply strengthen the quality of congressional oversight over the entire export license application and control system. Congress must exercise this oversight over the operation of agency rules and regulations in order to determine if those rules comply with original congressional intent. I am sure there would be much less confusion within the executive branch if the Congress were to specify what it considers important in the license application process.

Even more important is our own ability to monitor the performance of the executive agencies and departments which participate in the licensing process. On May 15, 1979, the House Subcommittee on Research and Development of the Armed Services Committee, chaired by the distinguished gentleman from Missouri (Mr. ICHORD), opened a series of hearings on our export control policies. I sat in on many of them. After 2½ weeks of hearings, Congressman ICHORD discovered disturbing evidence of administrative confusion, if not downright deception and/or incompetence, within the administration on the issue of export licenses and control. According to a recently published statement by my distinguished colleague, there were attempts to control witnesses before the subcommittee; witnesses gave conflicting testimony; witnesses changed statements between appearances; and, most shocking of all, one witness stated he had been instructed to make sure his testimony would not conflict with that of his superiors, an instruction that he clearly translated, again to use the chairman's language, as a "veiled threat to his job." I agree with the gentleman from Missouri that the condition of information—possibly the condition of truth—in the executive branch is in an amorphous, incoherent, and confused state—a "typical bureaucratic maze."

When calling upon the executive branch, whether it is the Department of Commerce or the Department of Defense or any other agency of the Federal Government, the Congress cannot afford to waste time taking testimony or in analyzing confusion over matters of fact and postmistake rationalizations of export control policy. From the standpoint of hindsight, it would have been much better for all concerned if Congress had had access to a complete set of records on the Cyber 76 case in 1977, the sale of the Centalign B ball-bearing machines in 1972, or the records pertaining to the licensing of American firms who provided as much as $1.5 billion in construction technology to the Soviet Union's massive Kama River truck plant, now the largest truck facility in the world. Today the Defense Department reports trucks from this plant are regularly seen with Communist military units throughout Eastern Europe.

This amendment will help clear up administrative confusion, clarify what is expected in the assembling and maintenance of adequate and complete records, and foster a consistency of approach within the executive branch of the Government in regard to these decisions. It is only in this way that Members of Congress and responsible officials within the executive branch can ascertain whether or not a particular action on an export license is justified by the facts, and is consistent with the legislative intentions of the Congress.

Mr. Chairman, I ask for adoption of the amendment.

□ 1710

The CHAIRMAN. The time of the gentleman from California (Mr. DORNAN) has expired.

(On request of Mr. ICHORD and by unanimous consent, Mr. DORNAN was allowed to proceed for 3 additional minutes.)

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the distinguished gentleman from California mentioned my name and the hearings the Armed Service Committee conducted on H.R. 3216 and the problems that we encountered in obtaining information, particularly from the Department of Commerce.

The gentleman is correct.

I was concerned. I do not know who exactly is to blame. I thought the attempts to muzzle the witnesses was really very silly and hurt the cause, their own cause, rather than helped it.

The gentleman is correct. One witness, Dr. Ruth Davis, did have her testimony censored, in which she was to give what was thought to be opinion testimony in regard to possible diversions of this dual technology that had been transferred to our potential adversaries.

I have not had the opportunity to read the amendment offered by the gentleman from California. I think that I do agree with the objectives, but I do raise the question: Is the gentleman sure that he is not going to impose too much recordkeeping responsibilities upon the agencies?

Mr. DORNAN. That is a good objection. I anticipated this as one of the serious objections to this amendment, because most of us in this Chamber are properly upset about the bureaucratic maze that has inundated our Nation—1 million forms a week saying there is nothing to report.

However, as the gentleman has emphasized over and over, if ever there was an area that needed proper, careful analytical reporting, it is this area of technology transfer. In the amendment, if I might say, I have asked that the gentleman's staff take a look at it, the staff of the gentleman from New York (Mr. WOLFF) and the gentleman from Ohio (Mr. MILLER), and I think it has been very fair and cost-accounting conscious in the number of reports that it does require. I think it just backs up what the gentleman's other amendments have done in making this an area of serious concern to both the Commerce Department, the Defense Department, this Congress and the executive branch, so that we all play a role in what goes over to people who might use it against us in, God forbid, another major conflict.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I regret that the gentleman from California did not have the opportunity to let us consider this amendment in advance. It has just reached my desk here. It raises a number of questions along the lines raised by the gentleman from Missouri. There are thousands and thousands of export applications that are filed every year. If these detailed requirements are applicable to those, we are going to have to appropriate more funds for the department to cope with the flood of paper.

I could appreciate the gentleman's concern with wanting this information with respect to the Kama River truck project, but that is 1 in 10,000 in terms of its importance, in terms of its significance. There are 80,000 applications for licenses submitted to the Department every year, and I think this is just going to bury them in a flood of paper. I doubt very much that the Congress is going to make use of it or any substantial portion of it.

We have added to the bill provisions which make clear that none of the provisions of confidentiality which we will be discussing later, and which have always been in the act, prevent the submission of all necessary information to congressional committees. I might just read that provision:

> Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction.

So there is no question that Congress has access to the information. The only question is whether there is need for this type of detailed information to be kept on all of the many thousands of applications.

In terms of governmental economy and trying to eliminate the spread of the bureaucracy, in the form in which it has been submitted to us I am constrained to oppose the amendment.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I have some concerns about this amendment, as well.

What we are trying to achieve with export controls is a question of balancing controls on the one hand and our interest in promoting exports. I am concerned that this amendment might go too far the other way. It could deter exports to such an extent that our national interest could be harmed—and I am sure this is not what the gentleman intends and maybe it would not be the way it would work out—just because DOD would not want to become involved with all of the paperwork.

So there is the possibility, at least in some cases, that it would not exercise its option to review licenses for national security purposes. I hope that would not happen, but it is certainly a possibility.

My amendment in committee provided for complete access to records by Congress, so that need is already taken care of.

I am concerned that this amendment might be counterproductive. I am convinced, even though I have only served on this subcommittee for a short period of time, that we are going to continue to hold very extensive oversight hearings and, should it come to our attention that the records are not being kept adequately or that proper information is not being provided for, we certainly can come back to the floor and ask that the law be changed to require it.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, in our analysis of this amendment we were very careful to make sure that it was so specific that it would deal with less than 1 percent of total U.S. trade. What this amendment specifies, on the types of records to be maintained, is only the technical facts upon which a license application was denied, the extent of the technological need of the United States on this particular item, the foreign availability of the technology, the safeguards of the technology to a controlled country, and any other information appropriate to an understanding of license application decisions.

The distinguished chairman said that he doubted that Congress would use this information. I know I personally would use it, because I have made this an area of expertise in my office for 2 years and 8 months.

I have talked with many staffers on both the Committee on Foreign Affairs and the Defense Committee, who would absolutely use this, and, in talking to many Defense people, honestly, I say to my distinguished colleague, I have not had one Department of Defense person say that they would not be eager to keep records in this way and to keep us informed, because they feel they have been overridden by the State Department. And I say that this happened under a Republican administration several times, particularly with computers.

So I would hope that the gentleman would consider supporting this, and I am sure that it will be discussed in conference committee. I have already talked to the chairman who will be on this committee, and he said that all of this will be hammered out in the conference committee.

Mr. LAGOMARSINO. I thank the gentleman for his remarks.

□ 1720

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DORNAN).

The question was taken; and on a division (demanded by Mr. DORNAN) there were—ayes 14, noes 16.

RECORDED VOTE

Mr. DORNAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 109, noes 296, not voting 29, as follows:

[Roll No. 458]

AYES—109

Abdnor
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Bowen
Breaux
Broomfield
Broyhill
Burgener
Butler
Chappell
Clausen
Cleveland
Coleman
Collins, Tex.
Conyers
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Devine
Dickinson
Dornan
Duncan, Tenn.
Erdahl
Evans, Del.
Goldwater
Grisham
Guyer
Hammer-schmidt
Hansen
Harsha
Holland
Holt
Hyde
Ichord
Ireland
Jeffries
Jenkins
Kazen
Kelly
Kemp
Kindness
Kramer
Latta
Lent
Levitas
Lewis
Long, Md.
Lott
Lujan
Lungren
McDonald
Madigan
Marriott
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Gilman
Moorhead, Calif.
Mottl
Nichols
Oakar
Pashayan
Quayle
Quillen
Robinson
Roussselot
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Shumway
Shuster
Snyder
Solomon
Spence
Stangeland
Stratton
Symms
Taylor
Trible
Vander Jagt
Wampler
White
Whitehurst
Williams, Ohio
Winn
Wydler
Wylie
Yatron
Young, Fla.

NOES—296

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Baldus
Barnard
Barnes
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonker
Bonior
Bonker
Bouquard
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Burton, John
Burton, Phillip
Byron
Carney
Carr
Cavanaugh
Chisholm
Clay
Clinger
Coelho
Collins, Ill.
Conable
Conte
Corcoran
Corman
Coughlin
D'Amours
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hurto
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lehman
Leland
Livingston
Lloyd
Loeffler
Long, La.
Lowry
Luken
Lundine
McClory
McCloskey
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Royer
Russo
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Treen
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Watkins
Weaver
Weiss
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wirth
Wolpe
Wright
Wyatt
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—29

Anderson, Ill.
Applegate
Beard, R.I.
Campbell
Carter
Cheney
Cotter
Derwinski
Diggs
Flood
Forsythe
Gibbons
Gingrich
Hinson
Lederer
McCormack
Mikva
Minish
Mitchell, Md.
Price
Rose
Roybal
Sabo
Stump
Waxman
Wilson, C. H.
Wilson, Tex.
Wolff
Young, Alaska

□ 1730

Mr. LAGOMARSINO and Mr. EDWARDS of Oklahoma changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1740

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is my intention momentarily to move that the Committee rise in accordance with the announced procedure of rising at 5:30.

Pending that, I would like to yield to the gentleman from California (Mr. MINETA) for a colloquy.

Mr. MINETA. Mr. Chairman, I thank the gentleman for yielding. I rise to express my strong support for H.R. 4034, the Export Administration Act Amendments of 1979. Congressman BINGHAM deserves praise from this body for his tremendous effort which has resulted in this excellent piece of legislation.

I represent a district which includes an area with the highest concentration of high technology electronics firms in the world. Many have dubbed the Santa Clara Valley in California, "Silicon Valley." In part, it is the high-technology products of the Silicon Valley which are unduly handicapped in the world market by the current export licensing process. H.R. 4034, as it now stands without amendment, represents a great stride toward eliminating unnecessary bureaucratic delays of export licenses.

As a member of the House Select Committee on Intelligence, I am keenly aware of the importance of American technology to our strategic defense posture and foreign policy initiatives. Yet, I am also aware of our tendency to ignore the foreign availability of high-technology products, and to ignore the impact of unnecessary delay in export licensing on our competitiveness in the world market.

Problems with the current export licensing process are largely procedural. The merits of H.R. 4034 lie in the clearly specified statutory procedures which would vastly improve the efficiency and effectiveness of the export licensing process.

In my view, H.R. 4034 has several key features:

First. The availability of products from foreign sources would become a major factor in the licensing process, and thus rationalize and improve the effectiveness of the licensing process.

Second. The new "qualified general license" category, which would apply to some products now approved on a case-by-case basis, should contribute to reducing the caseload of the Department of Commerce, and thus reducing delays for other licenses.

Third. The statutorily mandated "suspense points" would require timely decisions to be made on difficult licenses, and provide a firm with full knowledge of where its license stands, and when, at the outset, a decision must be reached. Other provisions would open up the licensing process and vastly improve the accountability for licensing decisions.

Fourth. The "indexing system" would allow for the timely removal of dated technologies or products from license controls. This provision would eliminate needless paperwork for firms which must now obtain a license to sell a dated product or technology.

Fifth. The elimination of reexport controls on U.S. products resold by COCOM nations would reduce another source of unwieldy and unnecessary paperwork. This provision also would place pressure on the administration to reduce the U.S. unilateral list of controlled products. And, the administration is directed to concentrate on making COCOM work more effectively.

Sixth. The administration must assess the foreign availability of products and the domestic economic impact of the lost sales of those products which are to be controlled for foreign policy reasons. This provision should help prevent useless controls from needlessly harming domestic production.

Again, I wish to stress to my colleagues the importance to the national interest of not handicapping the high-technology industry of this country in the world Market. H.R. 4034 represents an important stride toward preserving our national security interest and the interest of the domestic high-technology electronics industry.

Is it your intent that when a technical advisory committee certifies to the Secretary of Commerce that foreign availability does, in fact, exist, that the Secre-

tary shall take such steps as may be necessary to verify such availability within some time frame?

Mr. BINGHAM. Yes. Certainly we expect the Secretary to focus attention on such a recommendation as quickly as possible and certainly within a reasonable time frame.

Mr. MINETA. Assuming that a technical advisory committee or company does certify to the Secretary of Commerce that foreign availability does exist, is it your intent that the Secretary advise the Congress of such an allegation—whether or not acted upon—in the annual report to the Congress required by section 14(6)?

Mr. BINGHAM. Yes.

Mr. MINETA. I thank the gentleman very much.

Mr. BINGHAM. I thank the gentleman for his contribution and for his kind remarks.

● Mr. PRICE. Mr. Chairman, I rise in support of the amendment that was offered by the gentleman from Missouri, the chairman of the House Armed Services Research and Development Subcommittee.

First, I would like to commend Mr. ICHORD for his role in bringing to our attention the fact that the current system of export control is seriously deficient in insuring our national security objectives. H.R. 4034 goes a long way in improving upon the Export Control Act of 1969—it is a good bill, but it falls a little short in assuring that technology and goods that are vital to our national security are not prematurely transferred to our potential adversaries.

The amendment offered by the gentleman from Missouri simply requires the Secretary of Defense to develop a list of military critical technologies—the transfer of which would jeopardize our national security. This list of military critical technologies would then become part of the commodity control list and would be sufficiently specific to guide the determination of the Secretary of Commerce or any official exercising licensing responsibility over this act.

The need to define and control critical technology and goods dates back several years.

In 1976, a Defense Science Board was convened to address the matter of U.S. technology export. This panel, under the direction of Dr. Fred Bucy, president of Texas Instruments, concluded, and I quote:

> While Defense does not have the primary responsibility for control of technology export, the task force believes the initiatives for developing policy objectives and strategies for controlling specific technologies are their responsibility.

On May 17, 1979, Mr. William Root, Director of East-West Trade, State Department, advised Mr. ICHORD's subcommittee that—

> The Department of Defense is the best equipped place to evaluate the military significance of any particular technology.

Mr. Chairman, we have made a number of serious mistakes especially during the past 5 years in allowing some of our more critical technology and goods to be transferred to the Soviet Union. Most recently, we transferred some very special oil drilling technology to the Soviets. While I would not oppose the sale of drill bits to the Soviet Union, I do strongly oppose the transfer of advanced manufacturing technology to them.

I want to make sure that we do not repeat our past mistakes. We must have a better export control system to serve our security objectives.

At this time the Soviets are most anxious to get U.S. computers and semiconductor technology. Their attempt to acquire our technology has been both legal and illegal.

No legislation, H.R. 4034 included, will provide 100 percent assurance against the transfer of U.S. technology to our potential adversaries. Effective legislation, however, will serve to lengthen the time it takes for them to acquire our technology and goods.

I believe that while H.R. 4034, the bill before us today, enhances the export control process, it must be strengthened to preserve our national security. The amendment offered by Mr. ICHORD adds the necessary strength to this bill and I strongly agree with its adoption.●

● Mr. DERWINSKI. Mr. Chairman, at a time of dollar inflation, a serious deficit in international trade, and the need to maintain our vital alliances abroad, the administration of U.S. export policy is a particularly important issue. It has long been a serious question and is even more so now.

The Export Administration Act (H.R. 4034) recognizes the importance of exports to the U.S. economy but maintains certain restrictions on those exports for reasons of national security, foreign policy, and short supply at home. It is essential that the administration have an instrument that provides flexibility in dealing with our trading partners; economic leverage to help redress the imbalances that adversely affect our exports.

Of particular interest to American exporters is the bill's provisions to improve export licensing procedures and reduce the oppressive bureaucratic restrictions that impede the flow of exports.

Also, a necessary and just decision has been made by the Congress in this bill in its recognition of the profound changes that have taken place in Uganda. There is hope from all quarters that the long, dark travail of Uganda's holocaust is at last at an end. The orgy of death and destruction inflicted on Uganda by Field Marshal Idi Amin is finally over. It is logical for us to help that unfortunate country restore itself.

Hopefully, much of this task can be accomplished through church organizations; Christian missionaries—those who were not butchered by that African despot, Amin—have been a traditionally strong element in Ugandan society, particularly in the area of education. Moreover, religious and charitable organizations, such as Catholic Relief Services, CARE, Protestant church groups, and many private voluntary organizations have long experience and excellent records for success in emergency humanitarian relief programs such as are now needed in Uganda.

This bill is an appropriate vehicle for lifting U.S. trade sanctions rightly imposed by Congress against the viciously totalitarian regime of Idi Amin. The legislative fight for those sanctions, incidentally, appropriate at the time, was led by our colleague, the gentleman from Ohio (Mr. PEASE) over the initial opposition of the administration, which "in principle" opposed trade sanctions in general, although it has fought long and hard—and successfully, thus far—to maintain U.S. sanctions against another African government, the newly elected regime of Bishop Abel Muzorewa in Zimbabwe.●

Mr. BINGHAM. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BRADEMAS) having assumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO SIT DURING 5-MINUTE RULE ON WEDNESDAY, SEPTEMBER 12, 1979

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the House Committee on Agriculture may sit tomorrow, Wednesday, September 12, 1979, during consideration under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

DELETION OF NAME FROM LIST OF COSPONSORS ON H.R. 5050

Mrs. FENWICK. Mr. Speaker, I was erroneously listed as a cosponsor on the bill H.R. 5050, and ask unanimous consent that my name be deleted from the list of cosponsors on that bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

REPORT ON PROJECTED DEFENSE DEPARTMENT SPENDING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-184)

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, without objection, referred to the Committee of the Whole

Livingston	Oberstar	Spellman
Lloyd	Obey	St Germain
Loeffler	Ottinger	Stack
Long, La.	Panetta	Staggers
Long, Md.	Patten	Stanton
Lowry	Patterson	Stark
Lujan	Perkins	Steed
Luken	Peyser	Stenholm
Lundine	Pickle	Stokes
McClory	Preyer	Stratton
McCloskey	Price	Studds
McCormack	Pritchard	Swift
McDade	Pursell	Synar
McEwen	Quayle	Taylor
McHugh	Rahall	Thomas
McKay	Railsback	Thompson
McKinney	Rangel	Traxler
Madigan	Ratchford	Trible
Markey	Regula	Udall
Marks	Reuss	Ullman
Marlenee	Rhodes	Van Deerlin
Marriott	Richmond	Vander Jagt
Machis	Rinaldo	Vanik
Matsui	Ritter	Vento
Mavroules	Roberts	Walgren
Mazzoli	Robinson	Wampler
Mica	Rodino	Watkins
Michel	Roe	Waxman
Mikulski	Rostenkowski	Weiss
Mikva	Roybal	White
Mineta	Royer	Whitley
Minish	Russo	Whittaker
Mitchell, N.Y.	Sabo	Whitten
Moakley	Santini	Williams, Mont.
Mollohan	Sawyer	Williams, Ohio
Montgomery	Scheuer	Wilson, Bob
Moorhead, Pa.	Schulze	Wilson, C. H.
Murphy, N.Y.	Sebelius	Wilson, Tex.
Murphy, Pa.	Selberling	Wolff
Murtha	Shannon	Wolpe
Myers, Ind.	Sharp	Wright
Myers, Pa.	Shelby	Wyatt
Natcher	Shuster	Wydler
Neal	Simon	Yates
Nedzi	Skelton	Yatron
Nelson	Slack	Young, Alaska
Nichols	Smith, Iowa	Young, Fla.
Nolan	Smith, Nebr.	Young, Mo.
Nowak	Snowe	Zablocki
O'Brien	Snyder	Zeferetti
Oakar	Solarz	

NAYS—71

Archer	Gooding	Paul
Ashbrook	Grisham	Pease
Badham	Hansen	Petri
Bauman	Holt	Quillen
Broyhill	Hughes	Roth
Cheney	Ichord	Rudd
Collins, Tex.	Jeffries	Runnels
Courter	Jones, Okla.	Satterfield
Crane, Daniel	Kelly	Schroeder
Crane, Philip	Kindness	Sensenbrenner
Daniel, Dan	Kramer	Shumway
Daniel, R. W.	Lagomarsino	Solomon
Dannemeyer	Lungren	Spence
Deckard	McDonald	Stangeland
Derwinski	Maguire	Stockman
Devine	Martin	Stump
Dicks	Mattox	Symms
Downey	Miller, Ohio	Tauke
Edwards, Okla.	Moffett	Volkmer
Erdahl	Moore	Walker
Evans, Ind.	Moorhead, Calif.	Weaver
Fenwick	Mottl	Whitehurst
Fountain	Pashayan	Wirth
Gephardt		Wylie

NOT VOTING—28

Anderson, Ill.	Frenzel	Murphy, Ill.
Anthony	Gibbons	Pepper
Carter	Goldwater	Rose
Collins, Ill.	Hagedorn	Rosenthal
Conyers	Holland	Rousselot
Corman	Hollenbeck	Stewart
Dellums	Leach, La.	Treen
Evans, Ga.	Lott	Winn
Flood	Miller, Calif.	
Ford, Mich.	Mitchell, Md.	

□ 1430

The Clerk announced the following pairs:

Mr. Anthony with Mr. Rousselot.
Mr. Ford of Michigan with Mr. Winn.
Mr. Leach of Louisiana with Mr. Hollenbeck.
Mr. Mitchell of Maryland with Mr. Lott.
Mr. Murphy of Illinois with Mr. Goldwater.
Mr. Pepper with Mr. Hagedorn.
Mr. Rosenthal with Mr. Frenzel.
Mr. Rose with Mr. Carter.
Mr. Gibbons with Mr. Holland.
Mrs. Collins of Illinois with Mr. Miller of California.
Mr. Conyers with Mr. Stewart.
Mr. Corman with Mr. Anderson of Illinois.
Mr. Evans of Georgia with Mr. Dellums.

Messrs. PEASE, GOODLING, ASHBROOK, FOUNTAIN, and KRAMER changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1440

GENERAL LEAVE

Mr. DUNCAN of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4440, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4034, with Mr. DANIELSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, September 11, 1979, the Clerk had read through line 6, on page 40.

Are there any further amendments to section 104?

Mr. BINGHAM. Mr. Chairman, I move to strike the last word.

(Mr. BINGHAM asked was was given permission to revise and extend his remarks.)

Mr. BINGHAM. Mr. Chairman, we have a little over 4 hours to complete consideration of this important legislation.

It really is imperative that we finish consideration of this bill today. The law that we are extending by this legislation expires the end of this month. If we do not extend this, there will be no export controls. I think we can do the job in the next 4¼ hours if the Members will exercise some degree of restraint. There may be some amendments that they may be willing to forego offering and simply offer them in a pro forma way. I will seek time limitations on certain amendments I have discussed with the proponents and the principal objectors. It should be possible to allow reasonable discussion of the major amendments.

So, I do plead with the Members to cooperate. I think it is in the interest of all of us that we finish this legislation by 7 o'clock. We have been on it now for a number of days at different times. We have been shunted aside for what appeared to be more urgent legislation.

Now, I think we do have the opportunity to finish up in a businesslike and restrained way.

I would also appeal to the Members not to call for record votes unless it seems really essential to do so.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from California, the ranking minority member on the subcommittee.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I want to join him in his plea to the committee. I think that we have done good work on the bill so far, and although there obviously should be time for a reasonable debate of the remaining amendments, some of which are very important, I think that we can finish by 7 o'clock if some restraint is used.

I commend the gentleman for his comments.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I would be glad to yield to the gentleman from Connecticut.

(Mr. McKINNEY asked and was given permission to revise and extend his remarks.)

Mr. McKINNEY. I thank the gentleman for yielding.

I would just like to applaud the chairman for his remarks and state that I do not think in my entire history in this House of 9 years have I ever voted to restrain debate or time, but the chairman makes a very good argument.

This is an authorization about to expire.

Most of the issues we are going to discuss have been discussed at length many times and voted on many times. I would hope that the House would respect the chairman's hard work and effort and that we would try and get on with the business of the House and get this bill passed.

The CHAIRMAN pro tempore. Are there further amendments to section 104? If not, the Clerk will read section 105.

The Clerk read as follows:

SHORT SUPPLY LICENSE ALLOCATION

SEC. 105. Section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended in subsection (b) by adding the following at the end of paragraph (1): "Such factors shall include the extent to which a country engages in equitable trade practices with respect to United States goods and treats the United States equitably in times of short supply.".

The CHAIRMAN. Are there any amendments to section 105?

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. At this point I was going to offer two amendments, one providing for the Department of Commerce to establish its own time limits on consideration of license applications rather than retaining those suspense dates in the bill and the other to give Cocom the same flexibility in its consideration of license applications that Commerce has.

In the interest of time, I will not offer my two amendments, but I do wish to call to the attention of my colleagues my concern that in an effort to expedite the process we do not end up raising the hopes of business only to have them further frustrated when dealing with the actual implementation of this legislation. I believe the record should at least show that in such a complex and important issue as national security controls, allowance should be made for flexibility in dealing with both the concerns of those who wish to insure our national security and at the same time provide American business the opportunity to have more certainty brought to the export licensing process.

Perhaps some of my concerns can be taken care of in the conference committee.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

I want to thank the gentleman for his restraint, which I hope others will emulate in not offering their amendments.

I would like to say that as I have discussed with the gentleman, I do intend that at the appropriate time to propose an amendment to the effective date section of the statute to give the administration 9 months in which to get organized to put in effect the set of deadlines that we propose in the legislation. It is something that may take them some time. They are doing it administratively, but it does seem wise that they should not have the impact of the law for a few months until they can get organized to do it.

I will be proposing that amendment as we get to the end of the bill where we deal with the effective date of the law.

Mr. LAGOMARSINO. I certainly will support the gentleman's amendment when he offers it.

The CHAIRMAN pro tempore. Are there further amendments to section 105? If not, the Clerk will read section 106.

The Clerk read as follows:

MONITORING OF EXPORTS

SEC. 106. Section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended by amending paragraph (1) of subsection (c) to read as follows:

"(c)(1) To effectuate the policy set forth in section 3(2)(C) of this Act, the Secretary shall monitor exports, and contracts for exports, of any good (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase, or shortage has, or may have, a serious adverse impact on the economy or any sector thereof. Any such monitoring shall commence at a time adequate to assure that the monitoring will result in a data base sufficient to enable policies to be developed, in accordance with section 3(2)(C) of this Act, to mitigate a short supply situation or serious inflationary price rise or, if export controls are needed, to permit imposition of such controls in a timely manner. Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection.".

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 106 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there any amendments to section 106? If not, the Clerk will read section 107.

The Clerk read as follows:

DOMESTIC CRUDE OIL

SEC. 107. Subsection (1) of section 7 of the Export Administration Act of 1969, as such section is redesignated by section 104 (a) of this Act, is amended—

(1) in paragraph (1)—

(A) by striking out clause (A) and inserting in lieu thereof the following: "(A) is exported to the territory of an adjacent foreign state to be refined and consumed therein in exchange for the same quantity of crude oil being exported from that country to the United States, such exchange achieving, through convenience or increased efficiency of transportation, lower oil prices described in paragraph (2)(A)(ii) of this subsection for consumers in the United States, or", and

(B) by striking out "during the 2-year period beginning on the date of enactment of this subsection"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

"(A) the President makes and publishes express findings that exports of such crude oil, including exchanges—

"(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

"(ii) will, within three months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refineries which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil which is exported, and (II) commensurately reduced wholesale and retail prices of products refined from such imported crude oil;

"(iii) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

"(iv) are clearly necessary to protect the national interest; and

"(v) are in accordance with the provisions of this Act; and

"(B) the President reports such findings to the Congress and the Congress, within sixty days thereafter, passes a concurrent resolution approving such exports on the basis of the findings.

Findings of lower costs and prices described in subparagraph (A)(ii) should be audited and verified by the General Accounting Office at least semiannually.

"(3) Notwithstanding any other provision of this section and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any nation pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before May 1, 1979.".

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 107 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1450

The CHAIRMAN. Are there amendments to section 107?

There being none, the Clerk will read section 108.

The Clerk read as follows:

UGANDA

SEC. 108. Section 7 of the Export Administration Act of 1969, as redesignated by section 104 of this Act, is amended by repealing subsection (m), as added by section 5(d) of the Act of October 10, 1978 (Public Law 95-435).

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to engage in a colloquy with the chairman of the subcommittee.

Mr. Chairman, the President in his energy speech, stated that when "this Nation critically needs a refinery * * * we will build it." On the west coast we critically need new refineries to process the heavy Alaskan crude oil now being shipped at high cost past California to the gulf coast for refining.

Because of the shortage of west coast refining capacity, I am particularly interested in assuring the prompt completion of a new 150,000-barrel-a-day refinery planned by the Alaska Petrochemical Co. (ALPETCO). This facility, to be located in Valdez, Alaska, at a cost of $1.8 billion, will use the latest technology to produce a maximum amount of light petroleum products. This refinery will market 75,000 barrels of unleaded gasoline in California, along with jet and diesel fuels.

Like all priority energy products, this refinery is faced with burdensome Federal regulations, permits, licenses and other time-consuming requirements. One area of Federal control directly affecting this project is established by the legislation before us today. To maximize the production of gasoline and fuels, the ALPETCO refinery will produce a low-octane naphtha, which has no readily available or economically feasible domestic market. Under the provisions of this legislation, ALPETCO will require an export license to sell the naphtha abroad.

I worked with my colleagues to establish the intent that his legislation should not be interpreted by the Department of Commerce in a manner that could hinder prompt development of refineries. Spe-

cifically, pursuant to section 3(3)(c) of the Export Administration Act Amendments of 1979, the Department should draft regulations to permit the export of petrochemical feedstocks when necessary to new refinery development, and when there is no available domestic market. Additionally, in the interest of providing greater certainty to project planners, the committee intends that the Department should take into account the need for prior commitments regarding export licenses.

I believe the action by the committee is clearly consistent with the thrust of the President's new energy initiatives, and will act to expedite the construction of new refineries.

I understand that the chairman, Mr. BINGHAM, agrees with this interpretation of section 3(3)(c), which is also set forth in the committee report.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I will yield to the gentleman.

Mr. BINGHAM. The gentleman is correct. The gentleman from California has accurately stated the committee's intent with regard to the export of petrochemical feedstocks.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman.

Mr. YOUNG of Alaska. I want to compliment the gentleman for his fine statement and the chairman for agreeing with the statement. It is of very vital importance to the State of Alaska that the ALPETCO project take place in Valdez.

There has been the possibility of an impediment because of the inability of getting an export license with naphtha when there is no market locally. I would hope that the committee is not being misled by the Department in any way, shape or form and further down the road we find that there is still a delaying factor present. But I would say if the intent of the gentleman and the report are followed, I am sure that the project will get on its way. I again want to compliment the gentleman.

Mr. LAGOMARSINO. And I want to compliment the gentleman from Alaska. His leadership in this matter has been very helpful; if we can build this refinery it will produce needed gasoline particularly unleaded gasoline, for the west coast, it will also, of course, reduce the necessity of shipping Alaskan oil to other countries to the extent that it can be refined in our own country in the State of Alaska.

The CHAIRMAN. Are there further amendments to section 108?

There being none, the Clerk will read section 109.

The Clerk read as follows:

BARTER AGREEMENTS

SEC. 109. Section 7 of the Export Administration Act of 1969, as redesignated by section 104 of this Act, is amended by adding at the end thereof the following new subsection:

"(n)(1) The exportation pursuant to a barter agreement of any goods which may lawfully be exported from the United States, for any goods which may lawfully be imported into the United States, may be exempted, in accordance with paragraph (2) of this subsection, from any quantitative limitation on exports (other than any reporting requirement) imposed to carry out the policy set forth in section (3)(2)(C) of this Act, or imposed by the President under the International Emergency Economic Powers Act (50 U.S.C. App. 1701 et seq.) on account of a threat to the economy of the United States.

"(2) The Secretary shall grant an exemption under paragraph (1) if the Secretary finds, after consultation with the head of any appropriate agency of the United States, that—

"(A) for the period during which the barter agreement is to be performed—

"(i) the average annual quantity of the goods to be exported pursuant to the barter agreement will not be required to satisfy the average amount of such goods estimated to be required annually by the domestic economy and will be surplus thereto; and

"(ii) the average annual quantity of the goods to be imported will be less than the average amount of such goods estimated to be required annually to supplement domestic production; and

"(B) the parties to such barter agreement have demonstrated adequately that they intend, and have the capacity, to perform such barter agreement.

"(3) For purposes of this subsection, the term 'barter agreement' means any agreement which is made for the exchange, without monetary consideration, of any goods produced in the United States for any goods produced outside of the United States.

"(4) This subsection shall apply only with respect to barter agreements entered into after the effective date of the Export Administration Act Amendments of 1979.".

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the section be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FINDLEY: Page 44, insert the following section after line 2 and redesignate subsequent sections accordingly:

PETITIONS FOR MONITORING OR CONTROLS

SEC. 109. Section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d)(1)(A) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes metallic materials capable of being recycled with respect to which a serious inflationary impact resulting from an increase in domestic prices or a domestic shortage, either of which results from increased exports, has or may have a significant adverse effect on the national economy or any sector thereof, may transmit a written petition to the Secretary requesting the monitoring of exports, or the imposition of export controls, or both, with respect to such material, in order to carry out the policy set forth in section 3(2)(C) of this Act.

"(B) Each petition shall be in such form as the Secretary shall prescribe and shall contain information in support of the action requested. The petition shall include any information reasonably available to the petitioner indicating (1) that there has been a significant increase, in relation to a specific period of time, in exports of such material in relation to domestic supply and (2) that there has been a serious inflationary impact resulting from a significant increase in the price of such material which may be related to exports.

"(2) Within fifteen days after receipt of any petition described in paragraph (1), the Secretary shall publish a notice in the Federal Register. The notice shall (A) include the name of the material which is the subject of the petition, (B) include the Schedule B number of the material as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (C) indicate whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material, and (D) provide that interested persons shall have a period of thirty days commencing with the dae of publication of such notice to submit to the Secretary written data, views, or arguments, with or without opportunity for oral presentation, with respect to the matter involved. At the request of the petitioner or any other described in paragraph (1)(A) with respect to the material which is the subject of the petition, or at the request of any entity representative of producers or exporters of such material, the Secretary shall conduct public hearings with respect to the subject of the petition, in which event the thirty-day period may be extended to forty-five days.

"(3) Within forty-five days after the end of the thirty of forty-five-day period described in paragraph (2), as the case may be, or within seventy-five days after the publication in the Federal Register, pursuant to paragraph (2), whichever occurs later, the Secretary shall—

"(A) determine whether to impose monitoring or controls, or both, on the exportation of such material, in order to carry out the policy set forth in section 3(2)(C) of this Act; and

"(B) publish in the Federal Register a detailed statement of the reasons for such determination.

"(4) Within fifteen days after making a determination under paragraph (3) to impose monitoring or controls on the exportation of a material, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within thirty days following the publication of such proposed regulations, and after considering any public comments, the Secretary shall publish and implement final regulations.

"(5) For purposes of publishing notices in the Federal Register and scheduling public hearings, the Secretary may consolidate petitions, and responses thereto, which involve the same or related materials.

"(6) If a petition has been fully considered within the past six months under this section and a notice has been published with respect to a particular material or group of materials and in the absence of significantly changed circumstances, the Secretary shall have authority to determine that the petition for monitoring or control of such material does not merit the full consideration mandated under this section.

"(7) The procedures and time limits set forth in this subsection with respect to a petition filed under this subsection shall take precedence over any review undertaken at the initiative of the Secretary with respect to the same subject as that of the petition.

"(8) The Secretary may impose monitoring or controls on a temporary basis after a petition is filed under paragraph (1)(A) but before the Secretary makes a determination under pargraph (3) if the Secretary considers such action to be necessary to carry out

the policy set forth in section 3(2)(C) of this Act.

"(9) The authority under this section shall not be construed to affect the authority of the Secretary under the other provision of this Act."

"(10) Nothing contained in this section shall be construed to preclude submission on a confidential basis to the Secretary of Commerce of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, nor consideration of such information by the Secretary in reaching decisions required under this section. The provisions of this subsection are not intended to change the applicability of section 552(b) of title 5, United States Code."

Page 58, line 23, strike out "(d),".

Page 58, line 24, strike out "(d)," after "(c)".

Page 59, line 3, strike out "and (h)" and insert in lieu thereof "(h), and (i)".

Mr. FINDLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FINDLEY. Mr. Chairman, the amendment Mr. ZABLOCKI and I are offering to the Export Administration Act is nothing more than a "sunshine amendment." It sets up a procedure to allow users of recyclable metals to petition the Commerce Department for a hearing at which the users could present evidence of the need for relief under the law. This is not a protectionist amendment. It does not impose or call for export controls. It simply gives those who are hurting assurance that they can make their case in a formal hearing—something they are currently denied.

My amendment is much more limited than the "Buchanan amendment." The procedures in my amendment are more tightly drawn, and I have limited its scope to metallic materials capable of being recycled. The reason I have limited the scope of my amendment is that a number of groups, including producers of agricultural products, have expressed concern about the impact of the Buchanan amendment on their ability to export their products.

Here is how my amendment works: It adds a new section to the Export Administration Act permitting persons, companies, trade associations, or unions, representing a substantial segment of an industry, to file a written petition with the Secretary of Commerce requesting monitoring of exports or controls. The petition must show that, as a result of increased exports of recyclable metals, their industry is confronted with either a shortage or a serious inflationary impact resulting from an increase in the prices they must pay for the metal they use.

Within 15 days of receiving a petition, the Secretary of Commerce must publish a notice in the Federal Register. Within the next 45 days, hearings must be held if requested, and written submissions may be provided.

With the next 30 days, the Secretary of Commerce must decide whether to grant the relief requested and publish the decision in the Federal Register along with the reasons for the decision. That is all the amendment does. It brings the decisionmaking process out into the open from behind the closed doors of the Secretary of Commerce. These provisions are purely procedural in nature. They do not make any substantive changes in the Export Administration Act. They do, however, permit persons representing an industry seeking monitoring or export controls to be assured their request will be dealt with in an open, timely manner, rather than behind closed doors.

As the Export Administration Act now stands, the Commerce Department is not required to make a decision within any particular period of time, nor is it required to give its reasons for a favorable or unfavorable decision. It is not required to permit either proponents or opponents of a petition to argue their case in a public proceeding.

This amendment does not prejudge the outcome of petitions for monitoring of export controls. It simply brings the decisionmaking process into the sunshine, and assures that decisions will be made in a timely fashion. It does not add a significant new administrative burden to the Department of Commerce.

In summary:

First. This amendment is a "sunshine" provision—it brings the Government decisionmaking process into the open.

Second. It is procedural in nature—it does not prejudge or influence the ultimate decision.

Those who were concerned about the broad scope of the Buchanan amendment should support this very limited amendment, because it applies only to metallic materials capable of being recycled.

□ 1500

Mr. ZABLOCKI. Mr. Chairman, I rise in support of the amendment.

This is basically a procedural amendment, aimed at insuring that petitions for monitoring or for export controls receive full consideration.

This amendment is a sunshine-in-Government amendment. It provides that both the proponents and opponents of monitoring or export controls receive a full and fair hearing in the time of high prices/short supply of a particular metallic mineral that can be used as scrap.

The current version of the amendment is an improvement on earlier versions in that it would permit the Secretary of Commerce to consolidate petitions and to determine that, once full consideration had been given to a case and market circumstances had not changed, subsequent petitions would not go through the hearing process—this should avoid any abuse of the process. It also clearly specifies that the increase in prices or the shortage must result from exports, not from increased domestic buying.

Another improvement in the amendment is that it clearly permits the submission of information regarding a petition on a confidential basis. This is intended to avoid forcing companies to provide information publicly which could place them at a competitive disadvantage with respect to their competition, particularly foreign competition.

Mr. Chairman, I am opposed in principal to the use of export controls, and I would hope that the procedures provided for in this amendment would not have to be used. However, there may be a few instances in which export controls or monitoring have to be resorted to in order to protect the economy from disruptive foreign buying. Therefore, we must insure that there is an open and fair process to permit the full consideration of any such actions.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I am delighted to yield to the gentleman from Illinois.

(Mr. ROSTENKOWSKI asked and was given permission to revise and extend his remarks.)

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in support of the amendment of the gentleman from Illinois (Mr. FINDLEY). This amendment has been narrowed in scope from the original amendment of the gentleman from Alabama (Mr. BUCHANAN) so that the procedural provisions apply only to metallic materials capable of being recycled.

I support this amendment for the following reasons:

First. These procedural changes are good Government, sunshine act type provisions.

Second. The amendment has been narrowed in scope to cover only those types of products which have most frequently been the subject of Commerce Department consideration under the short supply provisions of the Export Administration Act.

Third. This amendment will assure that both sides of the issue will have an equal opportunity to present their cases to the Commerce Department, and to get a competent decision from the Commerce Department.

I urge my colleauges to join me in supporting the Findley amendment.

Mr. PEASE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. PEASE asked and was given permission to revise and extend his remarks.)

Mr. PEASE. Mr. Chairman, there are no two members of the Foreign Affairs Committee for whom I have greater respect and affection than my chairman, Mr. ZABLOCKI, and my good friend, PAUL FINDLEY, from Illinois. However, I do oppose this amendment.

This amendment is generated by the steel industry. It was generated because of a surge in prices, in recent months, of scrap metal; and because a lot of scrap metal was being exported overseas. Quite naturally, the companies in the United States which have use for scrap metal did not like the fact that they were going to have to pay more for scrap metal, and they came in seeking relief.

An amendment similar to this was offered in subcommittee. It was defeated. Essentially, the purpose of this, although it is not strictly spelled out, is to restrict the exportation of scrap metal. The

philosophy of this bill is to encourage exports, not to limit exports. I think we would be ill advised to adopt this amendment.

This amendment seeks to ameliorate inflation, high prices, of scrap metal. In fact, it might have exactly the opposite effect. It would set in place a procedure which would require hearings and a determination by the Secretary of Commerce which could have quite the opposite effect from that which is sought by the authors of the amendment. It has the potential for creating chaos in the commodities market because of the intense speculative activity which would likely accompany the filing of petitions for monitoring or controlling particular commodities. Also, because those who anticipate the advent of controls as a result of a petition under this amendment may step up exports, thus exacerbating a tight supply situation; because those who gamble that there will be no controls will likely withhold supplies from the market in anticipation of rising prices, thus making such price increases even more likely.

In sum, the proposed petitioning procedure will likely lead to the very situation we are trying to avoid, a surge in prices, exports, or both. In the meantime, we will have adopted an amendment for one industry which goes counter to the philosophy of this bill.

We do not need this amendment. While the petitioning procedure seems innocuous enough in this particular case, what is to set this industry aside from any one of a hundred other industries which may also be concerned about short supply situations and about high prices, and where the members of that industry prefer not to pay the higher prices?

We had no testimony in our committee that U.S. users could not get scrap metal. What they objected to was paying the going market price in the world. I think that that is not an adequate excuse for us to add restrictive language to the export administration bill, whose purpose is to encourage exportation.

I urge the defeat of the amendment.

□ 1510

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I will be happy to yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman very much for yielding. I am sure he is aware that the Senate version of this legislation has language in it much more encompassing than the amendment that I have offered, and it is my hope that when we go to conference the final product on this question will be very tightly written. One reason that I welcome the opportunity to offer this amendment is to set a guide which I hope the conferees on both sides of the Capitol will take note of, because I would not wish this to be expanded to include agricultural commodities. I am sure the gentleman would agree with me on this. It is tightly restricted to metalic metals that can be recycled.

I thank the gentleman for yielding.

Mr. PEASE. I thank the gentleman for his contribution. If I might just for a moment comment on that.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. PEASE was allowed to proceed for 2 additional minutes.)

Mr. PEASE. I was saying it would be preferable, I think, and more desirable to have no amendment at all on this side so that the conference committee has a choice between no amendment and a modification along the lines of what the gentleman has offered. I think we would be still well advised not to adopt this amendment.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I am glad to yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding. I am somewhat concerned about this amendment because I share the concern of the gentleman in the well about the precedent for this. On the other hand, I am at least happy, if I can emphasize the minimal pleasure, that the amendment has been very narrowly drafted, and while I would hope, along with the gentleman from Ohio (Mr. PEASE), that the amendment is not agreed to, if it is agreed to I would certainly encourage the conferees to follow the suggestion of the gentleman from Illinois that this amendment with its more restrictive focus be substituted for the much less desirable amendment that was added in the legislation in the other body. So as a principle and as a precedent, I join in opposing this legislation, but should it pass, I would hope that it could at least do the service of substituting for the restrictive amendment that the other body has.

Mr. PEASE. I appreciate the gentleman's contribution. However, it is a weak argument to say let us vote for an amendment because it is a less restrictive amendment than some other amendment. The best solution for an amendment that is a less restrictive amendment is to vote it down.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to this amendment. I do so with a great deal of reluctance because of my great respect and admiration for the sponsors of the amendment, the gentleman from Illinois (Mr. FINDLEY) the gentleman from Alabama (Mr. BUCHANAN) and, of course, the chairman of the full committee, my good friend, the gentleman from Wisconsin (Mr. ZABLOCKI). But I think that this amendment if adopted would allow narrow-interest groups to requrie repeated public hearings on export controls on virtually every recycled metallic product where demand is strong, and publicity from such hearings would create short-supply situations where none exist presently. It would create an uncertainty regarding U.S. commitment to continue exports of a commodity subject to such hearings and, thus, limit our ability to enlarge and enhance foreign markets.

The language in the bill reflects my amendment accepted in subcommittee providing that monitoring of exports shall commence early enough to assure that there is adequate information to determine whether export controls are needed for short-supply purposes.

I think we should at least try that approach before we go to this dangerous proposal.

The amendment is really aimed at advancing the interests of the iron and steel producers who want to see export controls placed on ferrous scrap. Ferrous scrap prices fell after the announcement that controls would not be placed on scrap exports and have remained stable since that decision made last March.

As a matter of fact, the price has gone down from $129 per ton in March to $92 per ton.

The ferrous scrap market is governed solely by supply and demand. Scrap is bought on a 30-day basis at prices set by consumers. When demand increases, price increases are necessary to induce scrap collectors, not processors, to seek out the necessary obsolete scrap to meet demand.

Wide fluctuations in scrap prices could be significantly reduced through long-term buying practices by the steel industry.

The scrap export market developed because U.S. consumers did not purchase the scrap processed by U.S. processors. Export sales are more expensive and pose greater risks for scrap processors than do domestic sales but are the only alternative when domestic markets do not absorb supplies. Export controls pose a danger of destroying foreign markets.

Since the price of scrap fluctuates up and down, but finished steel prices show only an upward movement, scrap iron prices have litle or no inflationary impace on the price of steel. Iron and steel scrap are not in short supply. Present estimates fix the existing supply at levels of meeting foreign and domestic demand for 15 years without even considering the huge vloume of new scrap that will be generated during this period.

The United States is not the only country exporting scrap. Others include West Germany, France, Great Britain, Holland, Sweden, Australia, Yugoslavia, East Germany, and Canada, among others. The EEC countries abolished controls in 1977.

The 1977 conference report on the Export Administration Act stated, and I quote:

> The conference committee recognized that formal monitoring can have a disruptive effect on the market because it can lead to excess ordering abroad in anticipation of controls, resulting in export restrictions which would not have been imposed but for monitoring.

The dispute is not a matter of Commerce not having sufficient information; it is a difference of opinion between Commerce and the steel industry as to what that information means.

I have a chart at the desk that shows ferrous scrap sales and domestic prices

reached their peak earlier in the 1970's during the precise period in which export controls were placed on ferrous scrap.

The decline in ferrous scrap prices at the end of 1974, at the end of the period of export controls on ferrous scrap, represents the decline in the U.S. economy in 1974 and 1975.

There was a weakening demand for steel and, thus, there was reduced demand for scrap.

Mr. Chairman, I think that we should vote down this amendment. I would agree with the gentleman from Illinois (Mr. FINDLEY) that the amendment is better than the amendment adopted in the Senate, but I think we would be in a stronger position to come up with a reasonable solution to this problem if we defeated this amendment rather than if we go part way and the Senate has gone the rest of the way. I ask my colleagues to defeat the amendment.

Mr. BINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think the members of the committee are entitled to know a few things in the way of history of this amendment, and also the administration's position. This amendment was originally offered in the broad form in subcommittee by the gentleman from Illinois (Mr. FINDLEY) that is to say, without restriction as to commodity. It is restricted to metals in its present form. The amendment at that time received my support and that of one or two other members of the subcommittee, but it was defeated in the subcommittee and it was not reoffered in the full committee. So the bill that emerged from the full committee did not contain that provision.

As far as this more limited form of the amendment is concerned, I think it is fair to say that the committee did not have it presented to it and, therefore, the committee has no position on it as such. The administration, however, has communicated its opposition to the proposal. It is very brief. The administration opposes the proposal, saying it has the potential for creating chaos in the scrap market and exacerbating the very problem that the amendment seeks to correct.

□ 1520

Mr. BUCHANAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise reluctantly to oppose the position of my distinguished friends from California and Ohio who very eloquently spoke on the wrong side of this issue and to enthusiastically speak for the Findley-Zablocki amendment.

Let me first underline this is not the same amendment, as the chairman of the subcommittee had said, which was offered in subcommittee by the gentleman from Illinois. It is not the same amendment which I had been prepared to offer and which is printed in the RECORD under my name to be offered to this legislation.

Mr. Chairman, I had worked rather carefully to make sure those groups who expressed great concern, but who were not intended to be covered, were excluded under my more general language. That amendment did not include any agricultural group, it did not include manufactured materials, and that amendment was not nearly as broad as it was purported to be by some of the information that circulated throughout this Chamber.

Regrettably, the Buchanan sunshine amendment has been widely misunderstood. A number of organizations and groups representing producers of agricultural commodities, coal, finished lumber, manufactured goods, and other materials have perceived the amendment as directly threatening their ability to export. In all candor, I believe that such fears are unfounded and are based, in large part, on misinformation which has been circulated regarding the amendment. Nevertheless, such apprehensions do exist—however groundless—and opposition to the Buchanan amendment is substantial. Therefore, although I continue to believe that the institution of a formal procedure within the Department of Commerce for consideration of such cases is warranted, I will not offer the amendment.

The Findley amendment goes from the general language of the Senate bill, the general language of the other amendment the gentleman offered in subcommittee and my general language, to single out, recyclable metallic materials, and therefore cannot include any agricultural product or any of the other products for export, so important to our country.

Mr. Chairman, it was never my intention to discourage exports. We rely upon them. Certainly not agricultural exports. Yet, I will say to my friend from Ohio, we do have a problem in the steel industry. Ferrous scrap is of vital importance to many foundries, to many steel producers that are themselves of vital importance to our economy, to our security. Having a certain supply of ferrous scrap at some rational price is important to many steelworkers, to many steel companies and to many communities whose lives and economies rely upon those industries.

Recyclable metallic materials are frequently the object of concern regarding export controls. For example, extremely high export levels of ferrous—iron and steel—scrap and resulting rapid price increases in this commodity have raised a great deal of controversy over whether the Department of Commerce should institute export controls under the short supply provisions of the Export Administration Act.

Ferrous scrap is one of the basic ingredients used in steelmaking. Over 75 percent of the country's steel producers operate solely with electric furnaces which rely almost exclusively on scrap as a raw material. Major integrated steel producers also consume large tonnages of ferrous scrap.

The portion of the steel industry which has grown up around the conversion of scrap iron to finished steel products offers our country a number of attractive opportunities. The use of scrap iron in the making of steel offers significant energy savings and results in virtually no pollution at the manufacturing site—through the elimination of coking facilities. In addition, small electric steel furnaces for the manufacture of steel can be constructed fairly rapidly and at modest costs. Therefore, such facilities can significantly increase our Nation's planning flexibility in periods where future demand for steel is uncertain.

Unfortunately, during peak periods of steel production, the United States cannot fully meet both domestic and foreign needs for ferrous scrap without shortages or drastic, inflationary price increases in the scrap market. For these reasons, ferrous scrap exports will continue to be a matter of controversy.

Mr. Chairman, this amendment does not assure any end result in the case of ferrous scrap or any other material covered. It only guarantees orderly procedures. It only makes mandatory that the Department of Commerce at least look at the problems when problems are presented, that the Department of Commerce act in the sunshine, not behind closed doors, and that those who feel that a substantial portion of the economy of this country is substantially injured by an export activity of this limited category of exports are guaranteed a day in court so that, in the sunshine, a decision can be made that may go for them or may go against them.

Mr. Chairman, this amendment precisely does not curtail exports, even in that limited category of materials that are covered, but it may be something that helps steelworkers to save their jobs.

Mr. Chairman, I want to say something: When the farmers in this country need help, people like my steelworker constituents have been among those in the forefront saying, "Yes, we should help, even though this is not in our particular interest."

Mr. Chairman, this amendment can protect the livelihood of steelworkers, and when they need help they ought not to be opposed for extraneous reasons by a group not covered by this narrow amendment.

Mr. Chairman, this is something that guarantees better government, better administration, and government in the sunshine. It can help protect the livelihood of some Americans and at least make sure that government looks at problems that can be of vital importance to our economy, to our security and, yes, to at least one industry that is of vital importance to our Nation.

Mr. Chairman, I urge the passage of this limited, good government, government in the sunshine amendment and yield back the balance of my time.

Mr. BONER of Tennessee. Mr. Chairman, the U.S. Department of Commerce, following a complete analysis of the steel industry request, announced on March 2, 1979 that no action to restrict or control exports of ferrous scrap was warranted.

Frank A. Weil, the then Assistant Secretary of Commerce for Industry and Trade, said that—

> Recent increases in scrap prices are not unusual in view of current market and seasonal factors and are not expected to continue.

He pointed out that—

The Council on Wage and Price Stability has advised the Department that recent ferrous scap prices should not have an undue adverse impact on the President's anti-inflation program.

In his statement, Mr. Weil went on to say that—

The ferrous scrap market is a typically volatile industry, showing rapid fluctuations both up and down as a result of short term market factors, and that experience has shown that price swings tend to work themselves out and return to normal within relatively brief periods.

He was right. Scrap prices are down significantly and many mills are either not buying or buying at greatly reduced levels.

Although rebuffed by the Commerce Department, the steel and foundry industries moved their cause up Pennsylvania Avenue to the Congress, where, in hearings being conducted by the House and Senate on the extension of the Export Administration Act, they sharply criticized the administration's failure to take action on their behalf.

Now using the congressional process as their forum, some scrap consumers are urging the Nation's lawmakers to bypass the Government department which administers the law and to pass a new law that would restrict scrap exports.

They urge modification of the act to make it easier for them to have export monitoring and controls initiated through the Commerce Department. Monitoring is a first step toward controls. Monitoring can create a self-fulfilling prophecy.

In testimony before the House Subcommittee on International Economic Policy and Trade, a charge was made that U.S. steel mills and foundries are attempting to use Federal export control laws to set the domestic price of iron and steel scrap. They were alleged to be seeking amendments to the Export Administration Act designed to subsidize those industries. That subsidization would take place at the expense of exports of ferrous scrap and would harm the U.S. balance-of-payments position. Since the steel and foundry industries are precluded by law from fixing the price of scrap, they were charged with asking the Government to do this for them. These industries are asking for the same type of special consideration that they accuse foreign governments of giving to foreign steel mills. Some of these same American steel mills have been recently involved in a price-fixing scheme on reinforcing bars and steel sheets.

The Department of Commerce had previously said that they have the data a formal proceeding would yield. The steel and foundry industries' real objection is not that the Department has insufficient data, but rather that these industries disagree with the Department's interpretation of that data. They are not worried about supply. They are trying to use monitoring and subsequently controls as a price-fixing scheme.

Was or is the price of ferrous scrap too high? Do high prices for ferrous scrap indicate that a shortage exists? Are scrap exports hurting the domestic economy? Would a restriction on scrap exports help reduce inflation?

The first question may be best answered by Mr. R. W. Deckmann, a United States Steel Corp. research consultant. In a presentation to the Electric Furnace Congress in December 1978 describing a ferrous scrap model developed for United States Steel, he pointed out that when adjusted for inflation. 1974 scrap prices were not unusually high but merley a return to the price levels of the 1955–56 period. The price of scrap in 1979 has not reached the level of 5 years ago, and the United States has certainly experienced a high degree of inflation in that 5-year period. In constant dollars, the price of scrap in 1979 is less than the $440 to $50 price levels of 23 years ago.

There is no question that the mainstream of thinking is that the expansion of export trade is critical to the United States. With an extremely parochial view, wanting to increase their profits at the expense of the scrap industry and the Nation, steel mills and foundries are urging this change in the proposed Export Administration Act.

With the recognized need to increase exports as one important method to improve the U.S. economy, and given the huge surplus of scrap which is going unused in this country, there are significant economic and environmental benefits to maintaining free trade in iron and steel scrap.

The CHAIRMAN. The question is on the amendment offerde by the gentleman from Illinois (Mr. FINDLEY).

The question was taken and on a division (demanded by Mr. FINDLEY) there were—ayes 18, noes 11.

RECORDED VOTE

Mr. LAGOMARSINO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 165, answered "present" 1, not voting 30, as follows:

[Roll No. 478]

AYES—238

Albosta
Alexander
Annunzio
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Bauman
Beard, R.I.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Bonior
Bonker
Bouquard
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Butler
Byron
Campbell
Carney
Chappell
Cleveland
Clinger
Conyers
Corcoran
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis, Mich.
Davis, S.C.
Deckard
Derrick
Derwinski
Devine
Dickinson
Dodd
Donnelly
Dougherty
Drinan
Duncan, Tenn.
Early
Edwards, Ala.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Fithian
Flippo
Fowler
Fuqua
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Gonzalez
Goodling
Gradison
Grisham
Guarini
Guyer
Hall, Tex.
Hamilton
Hammer-schmidt
Hanley
Hansen
Harris
Hawkins
Heckler
Heftel
Hillis
Holland
Holt
Holtzman
Hopkins
Horton
Hubbard
Hutto
Hyde
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Kastenmeier
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Latta
Lederer
Lee
Lent
Livingston
Lloyd
Loeffler
Luken
Lundine
McKay
McKinney
Madigan
Marks
Marriott
Martin
Mathis
McCloskey
McDade
McEwen
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Pashayan
Perkins
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Rostenkowski
Roth
Runnels
Russo
Santini
Satterfield
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Slack
Snowe
Snyder
Solomon
Spence
St Germain
Stack
Staggers
Stanton
Stewart
Stratton
Studds
Taylor
Thompson
Traxler
Trible
Udall
Vanik
Walgren
Walker
Wampler
Weaver
Weiss
White
Whitehurst
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wolff
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—165

Abdnor
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Ashley
Aspin
AuCoin
Baldus
Barnard
Barnes
Beard, Tenn.
Bedell
Beilenson
Boggs
Boner
Bowen
Brademas
Breaux
Brinkley
Burgener
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Cheney
Chisholm
Clausen
Clay
Coelho
Collins, Ill.
Collins, Tex.
Conable
Conte
Crane, Daniel
Crane, Philip
Dannemeyer
Daschle
de la Garza
Dellums
Dicks
Dixon
Dornan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
English
Fascell
Fazio
Ferraro
Fisher
Fiorio
Foley
Ford, Tenn.
Forsythe
Fountain
Frost
Garcia
Gibbons
Ginn
Goldwater
Gore
Gramm
Grassley
Gray
Green
Gudger
Hall, Ohio
Hance
Harkin
Harsha
Hefner
Hightower
Hinson
Howard
Huckaby
Hughes
Ireland
Jeffords
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kramer
Lagomarsino
Leach, Iowa
Leath, Tex.
Lehman
Leland
Levitas
Lewis
Long, La.
Long, Md.
Lowry
Lungren
McClory
McCormack
McDonald
McHugh
Maguire
Markey
Marlenee
Matsui
Mattox
Mineta
Mitchell, Md.
Montgomery
Moore
Moorhead, Calif.
Murtha
Neal
Panetta
Patten
Patterson
Paul
Pease
Petri
Peyser
Pickle
Preyer
Roberts
Roe
Roybal
Royer
Rudd
Sabo
Sawyer
Scheuer
Shumway
Skelton
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Stangeland
Stark
Steed
Stenholm
Stockman
Stokes
Stump
Swift
Symms
Synar
Tauke
Thomas
Van Deerlin
Vander Jagt
Vento
Volkmer
Watkins
Whitley
Williams, Mont.
Wilson, Tex.
Wirth
Wolpe
Wyatt
Yates

ANSWERED "PRESENT"—1

Glickman

NOT VOTING—80

Addabbo	Downey	Murphy, Ill.
Anderson, Ill.	Flood	Pepper
Anthony	Ford, Mich.	Rose
Broyhill	Frenzel	Rosenthal
Carter	Hagedorn	Rousselot
Coleman	Hollenbeck	Treen
Corman	Ichord	Ullman
Courter	Leach, La.	Waxman
Diggs	Lott	Wilson, C. H.
Dingell	Lujan	Winn

□ 1540

Messrs. ABDNOR, SHUMWAY, McCORMACK, McCLORY, CLAUSEN, COLLINS of Texas, and LONG of Maryland, and Mrs. SPELLMAN changed their votes from "aye" to "no."

Mr. BONIOR of Michigan, Mrs. HOLT, and Messrs. LEE, GILMAN, MOORHEAD, of Pennsylvania, MICA, HANLEY, and HORTON changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. ALEXANDER. Mr. Chairman, I move to strike the last word.

(Mr. ALEXANDER asked and was given permission to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Chairman, I rise in support of H.R. 4034, the Export Administration Act Amendments of 1979. This bill is a necessary first step in allowing Congress a role in developing a national export strategy.

The number of export license applications is growing out of control. The Department of Commerce expects to receive some 80,000 applications this year. Of that number more than 99 percent will be approved. The bill eliminates the massive amount of paperwork needed for most of the applications. The bill creates a new kind of license, called a qualified general license, under which multiple exports could be made of items which precedent shown are routinely approved anyway.

This feature of the bill should significantly cut down on the amount of paperwork. Second, under the term of the act, applications must be approved and disapproved within 90 days of submission. Last year some 2,000 applications required over 90 days to process and some took over a year. These administrative delays are costing American exporters money, reliability and dependability. It is also driving up inflation, costing U.S. jobs, and creating a trade deficit that is growing worse by the quarter.

Third, the United States continues to control exports that other countries do not control. The Soviet Union, PRC, and other countries simply turn to the West Germans or Japanese when they cannot secure a product from the United States. H.R. 4043 strongly suggests that the United States remove export controls when foreign availability is established.

The use of export controls for foreign policy purposes is accelerating at an alarming rate. The use of such controls has not proven to be an effective deterrent on the whole and merely serves to weaken the U.S. trade position.

This is pointed out in an excellent article published in Government Executive (May 1979) entitled "Needed: A New Export Law," by Sherman R. Abrahamson, special assistant to chief executive officers Control Data Corp. Mr. Abrahamson asserts:

Exercise in Illusion.—Supporters of U.S. export controls believe first and foremost that they have retarded the expansion of the military industrial potential of the U.S.S.R. and other communist countries. This contention is grounded upon faith in the efficacy of the bottleneck theory of military-industrial development, which theory has been discredited thoroughly in many analytical studies. The elemental truth of the matter is simply that the export control policy of the United States has had no discernible effect on the growth of military power of any of the communist countries.

Another benefit claimed for U.S. export controls has been its utility in furthering U.S. foreign policy. Over the years hundreds of export transactions requiring export licenses from the Commerce Department prior to shipment of commercial goods have been explicitly disallowed on foreign policy grounds. Presumably the policy makers intervened in these sales to indicate U.S. dissatisfaction with the behavior of the buyers, the theory being that such intervention will be so disruptive to the buying countries that they will change their behavior to a style more consonant with the wishes of the United States. U.S. business firms have experienced intervention by our government in normal commercial transactions with most of the countries in the world, including a number of our NATO allies.

In not one instance can these interventions be shown to have produced the desired behavioral change in the buying country.

The U.S. trade deficit continues to grow and worsen. We can no longer afford excessive licensing requirements, delays, and obsolete and ineffective export controls which merely serve to benefit the balance of trade of our competitors. Passage of H.R. 4034 will lead to moderate yet significant changes while protecting the purposes the controls were designed to achieve.

The chairman of the Foreign Affairs Subcommittee on International Economic Policy and Trade, Mr. BINGHAM, has done an excellent job in developing and preparing the bill for our consideration. The House Export Task Force, of which I am chairman, and Mr. BINGHAM, a distinguished member, recognizes the need for a modification in the licensing procedure. The National Governors Association had much input into the final version of the bill and now fully supports it.

H.R. 4034 is necessary as we in Congress begin to take a serious look at our export policy. I recommend passage of this bill and ask that my colleagues support it.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentlewoman from New Jersey.

(Mrs. FENWICK asked and was given permission to revise and extend her remarks.)

● Mrs. FENWICK. Mr. Chairman, during the House's consideration of H.R. 4034 last Tuesday, September 11, the House approved my amendment regarding major sales to countries which have repeatedly provided support for international terrorism. The amendment requires the administration to notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate before any license is approved for goods and technology valued at more than $7 million to any country concerning which the Secretary of State has determined: First, such country has repeatedly provided support for acts of international terrorism; and second, such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism. The formal text of the amendment and the brief discussion can be found on page H7665 of the CONGRESSIONAL RECORD for September 11, 1979.

The gentleman from New York (Mr. BINGHAM), the floor manager of the bill, and the gentleman from California (Mr. LAGOMARSINO) the floor manager for the minority side, were kind enough to accept the amendment and thus we did not take up the time of the Members to elaborate upon my intention as to how it would work.

I thought it might be useful guidance for those who might be involved in, or affected by the process, if I took this opportunity to explain it more fully.

The amendment is a simple one. It would require that the House Foreign Affairs Committee and the Senate Foreign Relations Committee be informed before formal approval of a license for the export of such items as large planes, or large numbers of heavy duty vehicles to a country which has repeatedly supported acts of international terrorism.

The amendment would formalize what the State Department has started to do with the other body, discuss potentially controversial sales in advance with interested members. This has happened as a result of some disputes in the past, which developed after some members had learned of sales of large cargo-carrying planes to such countries as Libya, which has given support to a number of terrorist groups.

The intention of my amendment is to assure that the relevant committees of both houses of Congress are kept abreast of the State and Commerce Department's plans and to make sure that this informal process is continued.

The amendment was deliberately drafted to allow flexibility in the way the committees are informed. I did not want to put the executive branch or those seeking export licenses in a straight jacket. Thus I did not propose a 30-day formal notification procedure such as the one used in Foreign Military Sales. I think we should first try an informal way of informing the committees, whether through letters, or briefings, or telephone calls. By this I do not mean a call a few minutes before an export license is approved, perhaps only to the very busy chairman or ranking member of the committee. In view of some past problems in advising Members informally of potential arms sales, the administration would be well advised to also inform all the interested members of the committee, especially those on the relevant

regional subcommittee. I think we can count on the commonsense of the State Department to tell us sufficiently in advance, so we can give thought to the matter. I think we can try this relatively informal approach before considering a more formal procedure.

In any event, there probably will be few of these cases in any given year. The kind of thing we are worried about involves primarily equipment which is designed for civilian purposes and is ostensibly sold for civilian use, but which could be used to support military operations, by transporting troops, equipment or munitions, or assisting terrorist operations.

One example is large aircraft. Libya used American-built airliners to try to keep Idi Amin in power by airlifting troops and equipment to Uganda. At the moment, proposed sales of jumbo jets are being held up to Libya. Another example of the type of thing Congress is concerned about took place last year when the administration approved selling Syria four L-100's, the civilian version of the C-130 military transport plane.

The sale was approved, without telling Congress, at the very time there was a debate underway over whether the administration's foreign aid appropriation for Syria should be approved for foreign policy reasons despite Syria's shelling of Christian areas of Lebanon.

The $7 million figure was chosen in order to be consistent with the Arms Control Export Act, section 36(b) which governs formal notifications to Congress of sales of equipment designed for military purposes.

Administration officials have said their records indicate that only five export licenses in 1978 and two so far this year would have fallen under the scope of my amendment. Thus, the amendment would not put a major burden on the executive branch.

It would be up to the Secretary of State to make the determination on whether the country has repeatedly provided support for acts of terrorism. There are guidelines, such as training and sanctuary, which have been worked out by various legal experts and are contained in the omnibus antiterrorism acts which were the subject of hearings last year and are in the committee stage again now. These guidelines will be useful in making a determination. In addition, of course, there is intelligence and other information which might be useful in making a determination. It is my expectation that the State Department will not be too legalistic about this in terms of making sure every "t" is crossed before declaring a country has repeatedly supported acts of terrorism. Hard evidence is not always immediately available. But there seems to be a general agreement among many experts that certain countries have been supporting terrorists, such as Libya, Iraq, South Yemen, and perhaps Syria which supports the wing of the PLO, Saiqa, which reportedly was involved in the recent attack on the Egyptian Embassy in Ankara.

Mr. Speaker, this amendment does not provide any magic levers or solutions. But there are situations in which countries are anxious to buy our equipment and such sales are clearly more desirable than foreign-made alternatives. There are other situations in which the sale might have symbolic value and, indeed, approving it, might help the efforts to wean countries away from supporting terrorists. This amendment is a responsible and measured approach to enable both the executive and legislative branches to consider more fully the proposed sales. The amendment also makes it clear that Congress—in line with its foreign policy responsibilities—should be kept informed about major developments in relations with countries which have supported terrorists.

It is a sensible amendment and I was pleased to see its adoption by the House.●

Mr. BROYHILL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, may I have the attention of the chairman of the subcommittee? I would like to ask the gentleman from New York (Mr. BINGHAM) a question.

As the gentleman knows, lithium metal is manufactured in my congressional district, and as he also knows, lithium metal requires a validated license for export under this act. As I understand it, this is for certain national security reasons; is that correct?

□ 1550

Mr. BINGHAM. If the gentleman will yeld, it is my understanding that lithium metal, as well as lithium hydride and lithium aluminum hydride, are on the control list and do require validated licenses for exports. It is my understanding, also, that the basis for this requirement is that certain forms of lithium are used in the manufacture of silicone chips for advanced computers, which is a critical technology, and that an isotope of lithium can be used in nuclear weapons production.

Mr. BROYHILL. I thank the gentleman. I make this inquiry because I am informed by the Lithium Corporation of America that the time required for processing license applications for export of lithium has greatly increased in the past year and that, furthermore, the company is losing sales to European competitors who are freely exporting lithium. Finally, the forms of lithium that the Lithium Corporation of America seeks licenses to export are not suitable for the uses the gentleman mentions which might be detrimental to the national security. I therefore inquire further of the gentleman whether this would not seem to be a basis for removing lithium from the control list.

Mr. BINGHAM. I would say to the gentleman from North Carolina that a very careful review of the uses, destinations, and actual foreign availability for lithium would have to be made before it would be prudent to determine to remove it from controls. Procedures are provided in this legislation for such reviews. If the Secretaries of Commerce and Defense would concur, on the basis of such a review, that the item should be removed from controls, and if this were agreeable to our allies in Cocom, then it could be done. From what the gentleman says about lithium, I would certainly say that there is reason to review that item, with great care in view of its nuclear and computer uses, to see whether controls are needed and effective. I can say to the gentleman that the Subcommittee on International Economic Policy and Trade, which I have the honor to chair, will itself investigate this matter further and see that a thorough review is made by the appropriate executive agencies of the basis and form of controls on lithium.

Mr. BROYHILL. I thank the gentleman for his statement.

The thing we are concerned about, of course, is getting some timely action on these applications. Under the present law it is taking actually months in order to get action on these applications and, of course, the lithium metal that is being exported has no use for the products or uses that I mentioned just a few moments ago. I would appreciate the cooperation of the gentleman and the committee in this regard.

Mr. BONKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to invite my colleague on the subcommittee, the gentleman from Michigan (Mr. WOLPE), to respond to several inquiries concerning section 107.

The subcommittee has information that refineries in the Netherlands Antilles (Aruba-Curacao) will have about a 500,000-barrel-per-day excess refinery capacity by 1982. They are able to handle Alaskan-type (sour) oil. Their excess capacity is about 250,000 barrels per day now.

My question concerns the language in the bill that the gentleman from Michigan (Mr. WOLPE) has authored.

If Alaskan production rises from 1.2 million barrels per day to 1.8 million barrels per day as projected and if there is a saving to the American consumer, then there is nothing in the amendment which would prevent Alaskan crude oil in excess of 1.2 million barrels per day from being refined "in bond" by Antilles refineries strictly for U.S. consumption?

Is that the gentleman's interpretation?

Mr. WOLPE. If the gentleman will yield, the gentleman is correct. There is nothing in the language of this provision that would prohibit any such arrangement if the consumer benefit criteria developed in the legislation are met.

Mr. BONKER. I have a second question.

The United States and Canada have in recent years periodically agreed to limited exchanges of certain types of crude oil destined for specific refineries. These exchanges have been mutually beneficial. They have provided crude oil in some instances where no alternative sources of supply existed. Exchanges for these purposes are continuing today, and opportunities for further exchanges will undoubtedly develop in the future. Am I correctly interpreting your language when I say that there is no intent to restrict or to prevent continuation of exchanges of this type?

Mr. WOLPE. If the gentleman will

yield, that is correct. There is no intent whatever to limit or restrict in any way any exchange arrangements of the type the gentleman has just described.

Mr. BONKER. I thank the gentleman.

Mr. LAGOMARSINO. I move to strike the last word.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I have studied the issue of exports of Alaska oil for some time. I sat through all of the hearings we held, and I talked to a lot of people and heard a lot of testimony, and I think the tougher provision that we can enact the better. I support the language in the bill concerning this subject.

Let me give you just a couple of reasons: First, any pipeline that is being proposed from the west coast to the middle of this country with or without a northern tier pipeline, I think, will never be built unless it is very clearly understood that it is going to be extremely difficult, if not impossible, to export oil. I am well aware that Sohio has announced abandonment of its plans. But that does not mean they—or some new applicant cannot decide to go ahead with it or some other pipeline.

Second, probably the best argument that was used by the administration, if you believed it, was that if we did not export oil it would preclude an increase in production in Alaska.

Very interestingly, in early May, Atlantic Richfield Oil Co., which is one of the Alaskan producers, announced it is going to increase its production by 25 percent, 300,000 barrels a day, in 1980. Company officials also said they anticipated no serious problems in transporting and distributing the oil to refineries in the continental United States, although transportation under current conditions would be relatively expensive. The present surplus of Alaskan crude oil that cannot be refined on the west coast is shipped through the Panama Canal to refineries in the southeast.

With regard to the Panama Canal, I am surprised that some of the people who support the administration generally and who support the Panama Canal treaty are lining up on the wrong side of this issue. Because, if we should export Alaskan oil, it would cut down on the tolls for the Panama Canal, which is not one of the things that has been forecast. And then, American taxpayers are going to have to either dig that money up, tolls are going to have to be increased or we are going to have a serious problem with Panama. If tolls are increased as a result of export of oil, it will have a very serious adverse effect on the countries of South America, especially western South America. It could easily do more harm than any good from the canal treaty.

Let me mention one other thing. Everyone was assured when the Alaskan pipeline was built that the oil would not be exported; it would be used in this country. Substantial investments were made by the American maritime industry to build ships to carry that extra volume of oil from Alaska. The only savings that there really are in shipping oil to Japan is by using foreign ships. If you use foreign ships, that certainly does not contribute to the favorable balance of trade because the money would then go outside the country, and the considerable investment of the American maritime industry would be lost, or at least impaired.

I would cite another point as well. Many of us met with Prime Minister Ohira of Japan, when he was in the United States. We are putting considerable pressure on the Japanese to increase their imports of our goods, agricultural products as well as manufactured goods. If we sell them hundreds of millions of dollars worth of oil it certainly is going to cut down on their interest in buying more from us. They will be able to say, "We have improved the balance of trade," and, of course the United States will be left having to buy that oil from someone else—with no change then in overall balance of trade.

Many environmentalists are opposed to exporting Alaskan crude oil. They have also given further consideration to the question of building new refineries. Their conclusion is that compared to older, polluting refineries, new large refineries using the latest technology are preferable for meeting our domestic oil needs.

This is especially true to meet the requirements of refining our heavy crude resources. Without a prohibition on the export of Alaskan oil, there will be little incentive to proceed with changing existing refineries to be able to process Alaskan oil or heavy crude which is so abundant in California. It is noteworthy that although we were advised several years ago that total west coast refinery capacity was 500,000 barrels per day, such refining capability is now some 830,000 barrels per day.

It will be interesting to see if the environmental groups will continue to endorse such programs once they get under way.

It is important to remember, also, that the language in this bill does not automatically prohibit export of Alaskan oil. The conditions to be met are very stringent, to be sure, but they do provide that if benefits can be passed on to the consumer and the refiner, then exports are possible. If those provisions can be met, then a trade could be a good thing. However, until those conditions are met, we should not export Alaskan oil.

Probably the best reason for not exporting Alaskan oil is that if we do not prevent it—or at least preserve that option—if we do not take strong action, I think that the credibility of the American people and the Government of the United States in relation to oil—and how we handle oil—is going to be even more seriously eroded than it already is, if such a think is possible. I do not know how you go from zero to minus. But that will happen, I can guarantee you, especially when you consider public reaction to the export of oil products to Iran.

The bottom line is that if the Congress of the United States is going to have anything to say about oil policy in this country, I think we had better preserve the strong provisions concerning export of Alaskan crude oil that do give the Congress the final say.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Connecticut.

(Mr. McKINNEY asked and was given permission to revise and extend his remarks.)

Mr. McKINNEY. Mr. Chairman, I totally agree with the gentleman.

Mr. Chairman, I rise to speak against the amendment. Just a few weeks ago the administration issued six departmental and agency reports on the selection of a pipeline route to carry Alaskan North Slope crude oil from the west coast to points east, the selection of any one of those routes represents the final decision in a project that began a decade ago—the delivery of billions of barrels of Alaskan oil to domestic markets, that oil has the potential to regain for us a portion of the political and economic independence forfeited by allowing ourselves to become dangerously reliant on foreign oil. I see but one potential obstacle threatening the completion of this 10-year project. That is the possible export of Alaskan oil. Today, Mr. Chairman, we have the opportunity to remove that final threat.

Section 107 of the bill before us now (H.R. 4034) contains a provision which would restrict the export or exchange of oil from Alaska's North Slope. As many of my colleagues are aware, it is a measure which I have sponsored and advocated for nearly 4 years. It is a measure which I believe to be an essential component of any future U.S. energy policy. Unfortunately, not everyone shares that view.

The export restriction in this bill is an extension and strengthening of an amendment I offered in 1977 and was contained in the Export Administration Act of that year. Opponents of the measure, 2 years ago, argued in favor of exporting Alaskan crude to Japan in exchange for that country's share of Mexican or OPEC imports. Export proponents argued that such an arrangement would ease the "glut" of oil on the west coast, result in a $2 per barrel savings in transportation costs and thereby increase the incentive to produce oil on the North Slope. If those arguments had any validity at the time, what little credence they enjoyed has been totally destroyed by recent development in world oil markets.

Mr. Chairman, there is no glut of oil on the west coast. As the price of Alaskan oil rises, so does the amount of Alaskan oil refined on the west coast. In fact, west coast refiners have increased their "take" of North Slope crude by 325,000 barrels a day (from 600,000 to 925,000) in the last few months. As a result, every one of the 1.3 million barrels of Alaskan crude produced each day is being refined and consumed in the United States. Furthermore, U.S. refiners in Puerto Rico and the Virgin Islands are eager to secure any additional production from the North Slope. Even decontrolled domestic oil is a desirable alternative to spot market crude.

The potential for slightly lower transportation costs, in the event of an exchange agreement, remains. However,

the $2 per barrel savings represents no relief for U.S. consumers. Any transportation cost benefits would be entirely captured by the North Slope producers. And, even those industry sources have indicated that there is no further need for financial incentive to market Alaskan North Slope Crude. After-tax profits for Alaskan oil landed on the west coast have risen 85 percent (to $4.11 per barrel) since December. The North Slope's largest producer, Sohio with 51 percent of the oil, has posted record-breaking earnings increases of 302 percent and an additional 70 percent in the first two quarters of this year respectively. Other producers have enjoyed similar good fortune. In short, Alaskan oil production is an extremely lucrative venture without the option of exports. However, the same does not hold true for the question of our supply security. In the event of an exchange agreement, the protection and security forfeited would be irretrievably lost.

Mexican and OPEC crudes are higher priced than Alaskan oil. As a result an exchange agreement would result in a loss to our balance of payments of about $1 for each barrel exported. But perhaps more important is the fact that neither source, OPEC or Mexican, can offer the guarantee of fuel for our factories and heat for our homes supplied by Alaskan oil. In May and June of this year, Mexico could fulfill only 60 percent of its contract obligations due to oil production difficulty. Perhaps the largest U.S. delivery of Mexican crude was that which washed up on the gulf coast shores just weeks ago. Furthermore, political instability in the entire Mideastern region argues irrefutably against engaging in an exchange which results in additional reliance on OPEC crude. The fact is, the only secure supply of oil is that which is produced from domestic wells.

Still, Mr. Chairman, the measure which my colleague, Mr. WOLPE, and I have sponsored does not preclude the possibility of exchanging Alaskan oil at some future date. The legislation clearly allows for unforeseen discoveries and new configurations in world oil markets. Under the provisions of section 107 of this bill, the President may submit a plan to export or exchange North Slope crude oil, accompanied by the requisite findings, to the Congress for approval by both Houses within 60 days. Indeed, the Presidential findings are stringent as well they should be. The findings require the United States to realize documented, economic benefits from an exchange, and, no such exchange proposal could in any way reduce the amount of oil available to this country. Nor could any exchange agreement proceed if any danger to U.S. supplies developed. Admittedly, a small consolation in the absence of an east to west pipeline system.

On the other hand, the legislation allows for the use of Alaskan oil to honor our commitment to Israel, should the politics of the Middle East deny that country sufficient supply. In addition, the measure provides exemptions for the exchange of Alaskan oil with Canada and Mexico as an added protection for our northern tier refiners and those on the gulf coast. In short, Mr. Speaker, section 107 is a well reasoned, fairly balanced approach to the use of Alaskan oil. It holds the North Slope producers to their promise of delivering that oil to the Lower 48, while at the same time acknowledging the reality of changing oil markets.

As I have said, we are closer than ever before to reaping the benefits of Alaskan oil development. To let those benefits slip through our fingers at this time would be a mistake of unmatched proportions. I urge all of my colleagues to support section 107 as contained in the bill, and defeat the amendment.

Mr. CLAUSEN. Mr. Chairman, I want to again restate my opposition to amendments which would have the effect of lifting restrictions contained within H.R. 4034 prohibiting an export or exchange of Alaska North Slope oil.

Over the past 2 years, I served as the ranking minority member of the Special Investigations Subcommittee of the Interior and Insular Affairs Committee. This subcommittee was given, in the 95th Congress, the responsibility of overseeing the disposition of crude oil transported to Valdez, Alaska, through the trans-Alaska pipeline. The subcommittee was interested in seeing to it that section 410 of the trans-Alaska Pipeline Authorization Act—Public Law 93-153—is implemented. This section provides in part that—

> [T]he President shall use any authority he may have to insure an equitable allocation of available North Slope and crude oil resources and petroleum products among all regions and all of the several states.

We must remind ourselves that when Congress, in 1973, passed the Trans-Alaska Pipeline System Act, we gave full assurance to all of the American people that Alaska oil would be available throughout the Nation to address our domestic energy requirements.

Mr. Chairman, I have always been an ardent supporter of energy independence. Today we clearly see an urgent national need for more control over our use and supply of energy. The only solution to our present dependence on the foreign oil cartels is American energy independence.

I recently supported and cosponsored H.R. 4985. This bill provides a balanced approach in establishing an Energy Mobilization Board to cut through bureaucratic redtape when addressing domestic energy projects.

Last Friday morning, I met with the new Energy Secretary Charles W. Duncan, Jr., to get acquainted and exchange views on a number of energy related matters. One area we discussed was the creation of a national energy distribution network. An effective domestic energy distribution network, including pipelines, seaports, terminal facilities and refineries, is the vital part of an overall program which fulfills the congressional promise of equitably distributing Alaskan and other crudes to all regions of our country. Hopefully, an Energy Mobilization Board will assist in the development of a domestic energy transportation system. A domestic oil distribution network is sadly lacking and our mobilization systems leave much to be desired.

Alaskan oil is vitally needed within the United States. Recently many of us learned our strategic petroleum reserve, SPR, program contains only 91 million barrels of oil. This amount is painfully short of the 250-million barrel target originally set for this time by the administration. Recent actions by Iraq and Nigeria lend support toward the notion of a more restrictive export policy. These actions, coupled with our lacking SPR program, delineates a bottom line of keeping Alaskan oil within our domestic borders.

West coast refineries in the past months have increased Alaskan oil refining capacity from approximately 500,000 barrels daily to 834,000 barrels. I am hopeful we can see a steady increase in refining capacity.

Mr. Chairman, I have learned the throughput capacity of the trans-Alaska pipeline will reach 1.5 million barrels per day by the end of this year. An export or exchange of Alaska North Slope crude oil would be against our best national, economic, and security interests.

The CHAIRMAN. Are there other amendments to section 109?

AMENDMENT OFFERED BY MR. SHANNON

Mr. SHANNON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHANNON: Page 45, insert the following section after line 21 and redesignate subsequent sections accordingly:

EXPORTS OF HIDES AND SKINS

SEC. 110. Subsection (f)(1) of section 7 of the Export Administration Act of 1969, as such section is redesignated by section 104 (a) of this Act, is amended—

(1) by inserting "(A)" after "(f)(1)"; and

(2) by adding at the end thereof the following:

"(B) Notwithstanding the provisions of subparagraph (A), in order to carry out the policy set forth in section 3(7) of this Act with respect to cattle hides and skins, cattle hides and skins may not be exported in any year in an amount which is a greater percentage of the total supply of cattle hides and skins produced in the United States than the percentage of the total supply of cattle hides and skins produced in the United States which were exported during the years 1974 through 1978. The limitation set forth in the preceding sentence shall not apply if the President, after receiving the recommendations of the Secretary and the Secretary of Agriculture, determines that—

"(i) countries which are major producers of cattle hides and skins and which, on the effective date of this subparagraph, have in effect restrictions on the export from those countries of cattle hides and skins resume reasonable levels of exports of cattle hides and skins; or

"(ii) during the last calendar year ending before such determination is made, the supply of cattle hides and skins produced in the United States, after deducting the amount of such hides and skins exported during that calendar year, was sufficient to meet the demands of the domestic economy.

The Secretary and the Secretary of Agriculture shall submit to the President recommendations so that the President has sufficient information to make the determination described in this subparagraph. Before making such recommendations, the two Secretaries shall hold public hearings, after providing reasonable notice thereof, and shall

afford interested parties an opportunity to submit written comments, with or without oral presentation, at such hearings. Any determination of the President made under this subparagraph shall be valid for a period of one year.".

Mr. SHANNON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

(Mr. SHANNON asked and was given permission to revise and extend his remarks.)

Mr. SHANNON. Mr. Chairman, I offer an amendment to limit U.S. exports of cattlehides to reasonable historic levels until major suppliers of hides moderate their export controls, or until adequate supplies become available to domestic users of hides. This amendment is a moderate and carefully worded response to the critical shortage of hides in this country.

According to the Department of Commerce, in 1977, out of a total of 41 million hides produced in this country, 58 percent were exported. That left a little over 17 million for domestic use, approximately the amount needed. The price was under 37 cents a pound.

This year, 34 million hides will be produced. Of that number, over 70 percent will be exported, leaving only 10 million hides for an industry that requires two-thirds again as many. And at a price double that of 1977.

The effect of this acute shortage on the more than 400,000 workers in the domestic leather industry is predictable. Thousands will lose their jobs. The effect on the consumer, according the President's Council on Wage and Price Stability, will be onerous. Industry estimates put shoe price rises at at least $10 a pair this year.

The cause of this shortage is rooted in the unfair trade practices of a number of other nations. Many foreign countries which manufacture leather goods do not produce cattle. These nations purchase their raw materials on the world market. But the United States is the only major exporter of hides. Brazil, Uraguay, India, and Argentina all produce large quantities of hides, but each severely restricts exports. Only Argentina has agreed to moderate its export controls—other producers have flatly turned down our requests for ending their hide export embargoes. Today, the United States, while producing only 15 percent of the world hide supply, provides close to two-thirds of the world market. When a shortage developes, the United States is forced to bear the full brunt. The American footwear and leather using industry has become a hostage to the restrictive trade practices of other nations.

I am a strong supporter of freer trade. If the leather industry had come to me and asked me to offer an amendment to limit imports of leather goods, I would have refused. But free trade in leather does not exist. The Japanese buy their hides behind protected markets. Other producing nations have export controls on hides. Romania, a Communist country and a major purchaser of U.S. hides, buys regardless of the price as a matter of state employment policy. This is not a question of America's industrial competitiveness in international trade. It is an inequity which leaves American workers and industry with no chance to compete and no chance to survive. Last year Brazil, which has embargoed its hide exports, increased its exports of finished leather goods to the United States by 40 percent. This does not work to our advantage in regards to America's balance-of-payments difficulties.

I have been asked, why cannot our manufacturers purchase the hides at a higher price? The answer is simple—foreign demand for hides is insatiable. The Japanese import close to one-third of our hides. But Japanese markets are protected by a highly restrictive import licensing system for finished leather goods. The Japanese leather using industry is in a position to bid up the price of hides without fear of foreign imports.

I have been asked if short-supply export controls are against the spirit of the MTN? Absolutely not. Provisions exist in the GATT for nondiscriminatory short-supply controls. It is the actions of our foreign hide importers which are against the spirit of the MTN.

I have been asked if this amendment would adversely effect the beef cycle or the price of beef. The answer is no to both questions. Both the Department of Commerce and the Department of Agriculture have stated repeatedly that the price of hides has no effect upon the supply—hides, which account for less than 10 percent of the value of a steer, are only a byproduct of the steer. Cattle are raised in accordance with the price of meat, not hides. And the price of meat is determined by supply and demand for meat.

I have been asked if this amendment would hurt the rancher. Once again, the answer is "No." According to the special trade representative, estimates imply that these moderate export controls would raise the price of hides on the international market by approximately the same amount that prices would drop in the domestic market. The net effect would be small.

Beef matters are dealt with in other legislation now pending before this House. This amendment will have little effect on the rancher. But it will have a life-or-death effect on the leather industry. According to industry figures and the Department of Commerce, close to one-third of the price of a pair of men's shoes is due to the cost of leather. But this shortage does not affect only eastern shoemakers. It affects the southern textile workers. It affects the Texan who produces industrial gaskets and valves. It affects the midwestern bootmaker. And it affects every American who buys leather goods.

Under my amendment, an export control mechanism would be established for bovine hides and skins. Controls would not be triggered if one of two situations existed: One, if, in the opinion of the President, with the advice of the Secretaries of Commerce and Agriculture, other major hide producers agreed to moderate their export controls, or if there were no domestic short-supply situation. If both a short-supply situation did exist and in the opinion of the President other hide nations were still restricting exports to an unacceptable degree, then export controls would be placed on cattle hides. These controls would equal the historical percentage of hides exported over the past 5 years.

Even if controls were in effect, more than half, approximately 56 percent, of U.S. hide production could be exported. The amendment would also strengthen the negotiating hand of the Special Trade Representative.

I am not asking for a law which protects industry from foreign competition. I am not asking for an amendment which will hurt the American cattle industry. I am asking for an amendment which will give the 400,000 leatherworkers in America a fighting chance to keep their jobs, and the American consumer badly needed relief from rising prices.

□ 1600

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Iowa.

(Mr. BEDELL asked and was given permission to revise and extend his remarks.)

Mr. BEDELL. Mr. Chairman, the proposed amendment seeks to restrict U.S. exports of cattle hides to "reasonable historical levels" until foreign governments remove their controls on hides or domestic supply exceeds domestic demand.

The Shannon-Carter amendment, in my opinion, is ill advised on several counts. It clearly contradicts the underlying tenet of both the Export Administration Act and the ongoing multilateral trade negotiations: that global economic stability and development, and free intercourse between nations depend critically on the least restrictive trade controls possible.

Unilateral U.S. imposition of export controls on hides may set a dangerous precedent, triggering retaliatory action by other nations rather than leading to the reduction of barriers against hide exports envisioned by the authors of the amendment. Moreover, restrictive action by the United States may well mark this country as an unreliable trade partner; supply uncertainty, the result of continually changing political currents, could make others more reluctant to trade with the United States.

In the shorter run, too, limitation of hide exports would be counterproductive. First, if the Shannon-Carter amendment passes, our already bleak balance-of-payments situation would worsen: hides account for $600 million of the $30 billion in annual U.S. agricultural exports. Further, the underlying supply shortfall might be aggravated. Much of the current supply problem can be traced to the so-called cattle cycle. We are in a period in which there are simply fewer cattle to be slaughtered. If hide exports are restricted and domestic prices drop as do-

mestic supply increases, cattlemen will receive less for their livestock. Cattle producers will have little incentive to rebuild their herds.

In addition, it must be emphasized that any advantage to the U.S. leather goods industry which flows from the Shannon-Carter proposal will come at the expense of other groups. Since mid-May, U.S. cattle producers have seen a 15 percent decline in cattle prices; a drop in hide prices following export restrictions would further depress the market value of cattle. Meatpackers meanwhile would be faced with the prospect of either absorbing the loss from falling hide prices or passing those costs along in the form of higher beef prices. Nor is there any assurance that cheaper leather goods would offset these increases to the consumer.

In any case, artificial restrictions on trade are stopgap measures at best. Ongoing multilateral negotiations may eventually provide some relief for U.S. leather manufacturers. But, more importantly, we must address the causes for the competitive disadvantage of our domestic leather industry, seeking to increase productivity, foster innovation, and encourage renovation of deteriorating plants and machinery.

The Shannon-Carter amendment is laudable in its objective of aiding a troubled industry. Yet we would be shortsighted to help one ailing industry while threatening the already precarious health of others. Moreover, hide export restrictions not only worsen the U.S. position in the world trade arena, they also fail to address the fundamental issues of a global hide supply problem and a less productive U.S. leather industry.

Mr. SMITH of Iowa. Mr. Chairman, make no mistake about it, we are not talking about something that is in short supply.

Supply is not the issue. There has always been a surplus of cattle hides in the United States ever since the *Mayflower* landed in Virginia or this country. Never, one day, since that time has there been a shortage of hides in this country.

Now, what we have here is an attempt to ration a product that is in surplus supply.

If the Members do not believe that, just look at what I have in my hand. It says "10" on it. It looks like something one would use to play monopoly. I guarantee my colleagues it is not. That is a rationing stamp.

In 1972, before someone with 10 cattle hides could sell them, they had to get one of these stamps. They had to go to a bureaucracy and get a stamp before they could sell something they had a right to have, that they had a right to merchandise. That is the kind of a situation we are talking about. It is rationing of a product that is in surplus supply.

The promoters of the amendment are not satisfied to have a price advantage. They want price controls.

They now have a price advantage. They can buy for the world market price less the cost of transportation, and the cost of transportation can be substantial. But they want more than that. They want to shift part of the cost to the cost of meat. That is what it has got to do. A slaughterer must secure a given amount out of the carcass. If they get less out of the hide, or out of the offal, he is going to shift part of it to the meat.

What has happened here? Since June, the price of hides is down 34 percent. I challenge anybody supporting this amendment to show me one manufacturer who has reduced the price 34 cents, let alone 34 percent of the price of his shoes or his leather products. Not one dime has been reduced even though the price has been down 34 percent in that period of time.

Let me tell my colleagues what happened before.

In 1966, there was a proposal that had been around for a couple of years. Nobody thought they would do anything about it, but lo and behold, 1 day the Secretary of Commerce approved an export control on hides.

The subcommittee funding the Commerce Department happened to be meeting, marking up the bill on funding for the Department of Commerce. So it happened to be the right time. We put an amendment in the bill.

I happened to have drawn the amendment. It prohibited them from using any money in the bill to administer the order. Well, that killed the order, but it was in effect for about 2 months before the bill was signed.

Let me tell the Members what happened in that 2 months. We had been selling a vast number of inferior hides overseas. The foreign purchasers had not developed an artificial leather market, but they saw then that they could not depend on us for these inferior hides, so they developed an artificial leather industry.

Within a couple of years, with their new capacity, they flooded the shoe market in this country with artificial leather shoes. It reverberated to the damage of the U.S. shoe manufacturer. They are so dumb they cannot see that. Or I should say they still do not seem to understand that a short time gain is a long term loss. They are going to get more of that same kind of thing every time export controls are threatened or ordered.

In 1972, there was another one of these kinds of export control orders. It depressed the leather market and increased the imports of cheaper shoes and products. It hurt our manufacturers even further. The more you show the foreigners that they cannot depend on us for hides, the more they develop their alternative sources of material; and they can flood the markets with those kinds of materials, because they have superior methods of manufacturing. During one of these periods, foreign manufacturers went to welding the upper into the sole. They forced the American manufacturer to get away from some of their archaic piecemeal methods and start doing the same thing. That is what happens when one tries to rig the world market with something like an export order.

What I am saying is, this amendment is not in the longterm interest of the shoe manufacturer. It is not in the interest of the beef consumer. It is not in the interest of the farmer. That is for sure. It is not in the interest of our deficit of payments. That is for sure. It is unfair. Anybody must see it is unfair.

What this amendment would also do would give to foreigners the right to decide when export controls are removed. When foreigners do certain things, then export controls go off.

Do we want an export control law that gives foreigners the right to decide when we trigger these kinds of actions? I think not.

I say that nobody has a constitutional right to have a leather seat in his Rolls Royce. We could not have a shortage of leather products in this country if every woman had more shoes and more pocketbooks than Twiggy. There is less than $2 worth of raw hide in a pair of shoes. If the price has increased greatly, it had to be because the tanners increased their take.

We could not have a shortage of leather products in this country if every horse owner had more saddles than Roy Rogers. What we are talking about is rationing a surplus product. It is not in our national interest and is unfair. I urge a no vote on the amendment.

The CHAIRMAN pro tempore. The time of the gentleman from Iowa (Mr. SMITH) has expired.

(At the request of Mr. PHILLIP BURTON and by unanimous consent, Mr. SMITH of Iowa was allowed to proceed for 1 additional minute.)

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from California.

Mr. PHILLIP BURTON. I thank the gentleman for yielding.

One of the very few parts of our economy that appears to be working, and one need only look at our balance of trade to firm up this conclusion, is the agricultural sector. It just plain does not make sense to support this amendment. I share the views expressed so ably by my colleague in the well.

Mr. SMITH of Iowa. I thank the gentleman.

Mr. ANDREWS of North Dakota. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let us get a little commonsense in this argument in the House. I just went out to the Speaker's lobby and picked up a copy of today's Wall Street Journal. They post the price of hides there. Hides in Chicago right now are selling for 73 cents a pound.

Last year, they sold for 61 cents a pound. Now that is an increase of 12 cents a pound.

□ 1610

My colleague a few moments ago said that does not make any difference to the farmer, to the cattleman, to the producer. The heck it does not. There is a 65-pound covering on a fat steer and that 65-pound hide brings 73 cents a pound, which means more than $50, $50 that does not have to be paid for by consumers in the price of hamburger.

All that happens when you sell a steer is you sell a steer to a plant and that plant takes it apart and sells the beef, it sells the bone meal, it sells the hide, and what we get for the one affects what consumers have to pay for the other.

Let us get back to shoes for a minute. I wear shoes just like everybody else.

Most of us have not been barefoot for quite some time. I have got big feet, fairly big, anyway. But 5 will get you 10. I do not have 3 pounds of leather in my two shoes. I doubt that anybody, even my colleague from California in the front row with those quarter-length boots—the gentleman ought to get full length ones from out West—but even a full size set of Texas boots does not carry more than $2.50 or $3 worth of rawhides in it. I think we have got to get down to a little bit of commonsense and recognize that if we begin to blame somebody else for the problems in the leather industry—and there are problems in the leather industry, part of which was brought out by what my colleague from Iowa said, they moved to artificial leathers and they told the producers of leather here in the United States, "We do not need your leather, we are going to go with Corfam and all of these other things." They told the cattle industry to forget it, so the cattlemen had to develop a market overseas or we would have had a whole host of problems. But right now we have a product that is selling at a reasonable price, 73 cents a pound. I do not think, as has been mentioned a moment ago, that half of the cost of shoes is attributable to the cost of the hides on the farm.

Mr. Chairman, once again the agricultural community is being blamed for the effects of inflation. Just a few weeks ago we heard a huge outcry about the high price of beef and those grumblings continue today. Once again the attack is aimed at the beef industry. This time the faultfinders want to blame inflation on the hides of cattle.

I think we should take time to look at a few facts. You will hear many talk about hides costing $1 a pound. The figures they are using are not current, but rather the highs reached in May. The market is taking care of itself and the prices of hides in the last few months have reduced dramatically. As of last week hide prices had reduced as follows—heavy native steer down 36 percent, light native steer down 32 percent, Colorado branded down 52 percent and Butt branded down 47 percent.

The higher prices for hides have been the result of low slaughters, but I warn you, if export controls are imposed, today's beef prices will seem cheap. If the producer loses up to $23 in reduced hide prices, that loss will be reflected in higher beef prices and further reduction in the size of herds, which would only serve to compound the problems facing the leather industry. It is in the leather industry's best interest to assure that our cattlemen continue to rebuild their herds.

The choice is a simple one, let the competitive market take care of itself, or face a shortage of beef and hides at escalated prices.

Even though the number of cattle being slaughtered is down, the United States will still slaughter about twice the number of hides our domestic industry can use. There is nothing to prevent the domestic industry from bidding on the competitive market for as much of this supply as they need.

I can understand my colleagues' concern over the plight our domestic leather industry finds itself in and their efforts to help it. But, this should not be done at the expense of another industry. In my State of North Dakota alone, export controls on cattle hides would cost our cattlemen over $9 million a year. Nationwide this could mean a loss of $680 million. It is simply not fair that American agriculture should continue to be asked to bear the brunt of the battle against inflation.

History has shown us that export controls are not an effective method of helping the domestic leather industry. When export controls were imposed on cattle hides in 1966, the price of shoes went up and the price of cattle went down. By the end of the summer of 1966 the price of men's shoes had risen 8.4 percent while women's shoes rose 7 percent. Throughout 1966 cattle hide prices plunged. As a result, the cattlemen paid for the shoeman's profit and the consumer was ignored.

An analysis just published by the Department of Agriculture indicated that the export controls probably would provide no long-term benefits to either the industry or consumers. It is true that the world supply of hides and skins probably will remain relatively low during the next 2 years as herds are rebuilt in many of the major cattle producing countries. But, as cattle herds are rebuilt and cattle slaughter begins to increase, hides and skins production will pick up rather rapidly in the early 1980's. To interrupt this normal cycle could prove disastrous to our cattlemen, the leather industry and our consumers.

Cattlemen are just now beginning to increase their herds. As I said before the lower prices they would receive as a result of export controls would undoubtedly slow this rebuilding. Such a reaction on the part of cattlemen would result in lower supplies in the future which would translate into even higher prices for meat and hides. Consumers would pay more for both meat and leather products in the long run—and that is no way to fight inflation.

Price flexibilities indicate that if export controls resulted in domestic hide prices that were 40- to 50-percent lower, it would result in only about a 2-percent lower price for footwear at the wholesale level. That is a high price for our cattlemen to pay, especially when we realize that retail prices for leather goods have not declined when hide prices fell.

Whenever the prices our farmers receive for their commodities increase, consumers and middlemen jump on the bandwagon declaring that these increases will result in higher and higher prices to our consumers. Yet we all know that when the price of wheat fell from the high $5 level to $2, the price of bread did not go down. Remember 65 cents a pound raw sugar? How many of you have paid less for a Coca Cola now that the price of raw sugar is 8 cents.

According to the Department of Agriculture's report, "U.S. consumers will probably fare about as well, if not better, under existing policies than under any policy examined. One offsetting benefit that consumers are getting from higher hide prices is that they are helping keep meat prices from rising even more rapidly than they have."

In looking at the total picture, I think it is important that we remember why our cattle industry got into the hide export business in the first place. About 10 years ago the shoe manufacturers told our livestock producers that they were not going to buy hides any more, but were shifting to synthetics. The cattle industry reacted to this proclamation by launching an energetic campaign to find overseas markets. And now many would have us turn our backs on the cattle industry by granting a preferred market to the leather industry.

Low labor productivity in our leather industry has been the cause of many of the current problems. Productivity in this industry has not kept pace with most other U.S. industries. I do not want to lessen the seriousness of the problems facing tanners and shoe manufacturers. I know there is a strong foreign demand for hides. However, attempting to limit exports of domestic hides will not solve their complicated problems. I do not think we should stand by and see the beef cattle industry made the whipping boy because we continue to apply simple solutions to comple problems.

Mr. Chairman, the administration opposes this amendment, our cattlemen oppose it, and our consumers should oppose it. I strongly urge on the basis of logic and reason, that this amendment be defeated.

Mr. SHANNON. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I will yield to the gentleman.

Mr. SHANNON. Mr. Chairman, I would just like to point out to the gentleman that by the Department of Agriculture's own statistics, and they are not supportive of this amendment, the value of a steer that can be attributed to the hide historically has been 4 percent of the value of the steer, 4 percent comes from the hide historically. I would just like to point out that by the Department of Commerce's statistics, and they are not supportive of this amendment, 30 to 50 percent of the cost of a man's shoe is attributable to the leather in that shoe.

Mr. ANDREWS of North Dakota. That is what the gentleman said, but my point is that it is hard to realize, with the elementary mathematics that I have had, how 73-cents-a-pound hides now selling in Chicago will make half of the cost of a pair of shoes that you cannot get for less than $30, $35, or $40.

Mr. SHANNON. If the gentleman will yield further, it is equally hard for me to see how 4 percent of the value of a cow is going to affect the beef cycle.

Mr. ANDREWS of North Dakota. The

gentleman is getting his statistics a little too far away from the cattleman. I happen to feed some cattle and I have a lot of constituents who feed cattle, and when they take that steer in to market, whether it is priced by the yellow sheet that my colleague from Iowa has a number of questions about, and a number of us have questions about it, or whatever else, the price they can pay down in that stockyard for that steer on that given day is directly related to what they can sell the component parts for, and the price of a steer hide today is a lot more than 4 percent, and has been. There are 65 pounds of hide on a normal steer and 65 pounds at 73 cents is worth close to $50.

Mr. SHANNON. If the gentleman will yield further, is it not a fact that historically 4 percent of the value of a steer comes from the hide and it has never risen above 10 percent, even at the highest hide prices?

Mr. ANDREWS of North Dakota. I think it has gone from 5 to 10 percent, but we have to equate that then with the stockman's profit and the gentleman will find that USDA statistics also say that the average net return for the farmer-feeder to feed a steer is 10 bucks, and that is less than what he has gotten for the hide today, a year ago, or 5 years ago. So the price of that hide is an extremely important component of what the farmer gets.

The CHAIRMAN pro tempore. The time of the gentleman from North Dakota has expired.

(At the request of Mr. GRAMM, and by unanimous consent, Mr. ANDREWS of North Dakota was allowed to proceed for 2 additional minutes.)

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to my colleague.

Mr. GRAMM. Mr. Chairman, I was just going to make the point that my colleague made, and that is that I think it is fine to talk about a margin of 4 percent to 10 percent as if that margin does not matter. But that margin today is greater than the profit margin on cattle. We are faced with a cycle that has been produced, in part started under President Nixon with price controls on beef. We are in the process of seeing some movements toward a buildup in herds, and I think to pull down this margin by artificially underpricing leather, or hides, in this case, would break that cycle, would make cattle production unprofitable and would reduce production and would add to our hide-shortage problem. I think that is a point that should not be lost in talking about 4-percent to 10-percent margins. That margin, as the gentleman in the well pointed out, is bigger than the profit margin on the cattle to begin with.

Mr. ANDREWS of North Dakota. I could not agree with my colleague more.

I would like to conclude by making just one more point, and that is that it is extremely important that we find an adequate market for the products of our farms and our feedlots. I think it is extremely important to note that in finding that adequate market the tanners and the shoe industry and the domestic leather industry get first shot at every cattle hide that is grown in the United States, first shot at it, so they are not cut off from supply. The biggest danger to the leather industry in this country is if we force down the profit margin on the farm to a nonexistent level and then we will not have the supply of leather that we need. More than anything else that would wreck the domestic leather industry.

I hope that this amendment will be defeated and fair play can stay in this field.

Mr. FITHIAN. Mr. Chairman, I move to strike the last word and I rise to oppose the amendment.

Mr. Chairman, I wish to take this opportunity to express my opposition to the Shannon amendment to the Export Administration Act. While I am deeply concerned with the rising price of shoes and leather goods in this country, I am not convinced that placing an embargo on hide exports will provide the relief sought by the shoe and leather industry.

If the United States were to embargo hides, it would have the effect of raising their price on the world market which would in turn increase the cost to consumers of imported leather goods. Since leather imports tend to keep the price of domestic leather lower for competitive purposes, it appears to me that consumers would continue to suffer even with a trade embargo.

Further, hides represent only 5 to 15 percent of the cost of finished shoes. Thus, any decrease in the domestic price of hides which might result from an embargo would not appreciably affect the price of shoes. Instead, I fear that such an embargo might force an increase in meat prices by meatpackers in order to make up for the loss of revenue from the hides.

Most importantly, I regard amendments like Mr. SHANNON's as running directly counter to the purpose of the Export Administration Act. This act represents an important effort to facilitate American exports at a time when our excessive reliance on foreign oil has created a serious negative balance of trade. Attempting to attach to the bill protectionist provisions favoring one particular product can dilute the impact of the law and open the door to all kinds of special interest amendments.

The bill already contains adequate procedures to restrict exports where necessary to protect our economy from the inflationary impact of an excessive drain of scarce materials caused by foreign demand. These provisions can be invoked, if necessary, to protect the shoe and leather industry.

In addition, international negotiations are currently being conducted by the Office of the Special Trade Representative with countries such as Japan and Argentina to insure a cutback in the purchase of U.S. hides and an increase in the exports of foreign hides. These negotiations, coupled with the procedures already in the act, should suffice to provide relief to our domestic leather industry without eroding an important effort to stimulate our export economy.

Mr. Chairman, I strongly oppose this amendment, not only because it is a blatant protectionist measure, but because of some of the arithmetic that my friend from Massachusetts has engaged in, and I would like to have his attention for just a moment, if I could. I believe the gentleman said on the price of shoes that one-third of them was wrapped up in the cost of leather. The figures I have are from 5 to 15 percent, but let us say for the moment the gentleman is correct.

Mr. SHANNON. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman.

Mr. SHANNON. Mr. Chairman, I will say that I am using the statistics provided me by Department of Commerce which says 30 to 50 percent.

Mr. FITHIAN. Let me use the gentleman's one-third if I may. How then do we account for the gentleman's next statement, which was if this amendment does not carry we could see an additional $10 per pair added to the cost of shoes this year, if the gentleman from North Dakota is even remotely close to the amount in his analysis of the amount of leather that actually goes into a shoe?

Mr. SHANNON. If the gentleman will yield further, I do not accept the gentleman's figure as remotely close.

Mr. FITHIAN. Taking the gentleman's own figure, what is the average cost of shoes?

Mr. SHANNON. I would say to the gentleman, if he will yield further, if we take the 30 percent to 50 percent figure as the amount of the cost of a pair of men's shoes that can be attributed to the leather in those shoes, I do not think a $10 increase is out of the question at all.

I have an unusual situation, I wear a size 13 shoe, but I end up paying $65 or $75 for a pair of shoes frequently.

Mr. FITHIAN. Mr. Chairman, I must oppose this amendment for many of the reasons that the people who are close and knowledgeable about the cattle industry have already stated.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I will yield to the gentleman.

Mr. ANDREWS of North Dakota. If we can go back to this $10 figure, all I said was how many pounds of leather do we have in a pair of shoes. Leather today sells for 73 cents a pound in Chicago. The gentleman can buy all of the leather hides he wants today for 73 cents a pound. I do not think most of us have more than 2 or 3 pounds, even that much in that $65 pair of shoes that the gentleman has. I just do not, cannot, just cannot come up with the mathematics that says that half of the cost of my pair of shoes is attributable to the leather. I appreciate my colleague yielding.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to my friend.

Mr. GLICKMAN. Mr. Chairman, I echo the remarks of the gentleman from Indiana. I would say the issue today is not the cattlemen or the hide people, the

issue is exports, free, unrestricted exports from this Nation. If we open the door here, and it is one of the first times the door has ever been opened, if we open the door here we will have every protectionist device available to protect one industry in this part of the country and another industry in another part of the country. That just flies right in the face of the MTN talks and it is bad for America. I urge the rejection of the amendment.

Mr. SHANNON. Mr. Chairman, will the gentleman yield for an inquiry to the gentleman from Kansas?

Mr. FITHIAN. I yield to the gentleman.

Mr. SHANNON. I would say to the gentleman from Kansas, is it the gentleman's intention to vote against the beef bill when it is on the floor of the House of Representatives?

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield to me?

Mr. FITHIAN. I yield to the gentleman.

Mr. GLICKMAN. I would say to the gentleman that I have not decided.

Mr. SHANNON. If the gentleman will yield further, would the gentleman characterize that as a protectionist measure?

Mr. GLICKMAN. Perhaps.

Mr. FITHIAN. Mr. Chairman, if I can retrieve my time, I think the gentleman from Kansas' argument is that the purpose, as I understand Chairman BINGHAM's analysis, the purpose of this bill is to promote exports. The whole thrust of the bill is to facilitate international trade.

Mr. GLICKMAN. If the gentleman will yield for 1 second further, as I understand it, this is, except for the restrictions on exports of Alaskan oil, and a provision for red cedar which is in the bill, and the one that was just passed on scrap metals, and we keep going forward, before we got to this bill we had not formalized in statutory form restrictions on exports of commodities. I just think while nobody is a purist, and I will agree with the gentleman from Massachusetts on that point, I just think it is bad policy to begin opening the door to every protectionist item we have.

Mr. FITHIAN. I thank the gentleman. If I may, Mr. Chairman, I regard amendments such as this as running directly counter to the purpose of the Export Administration Act in the first place.

□ 1620

Second, I regard amendments such as this as absolutely harmful to an industry which has lost money in 4 of the last 6 years, and lost money heavily. I cannot conceive of this House of Representatives turning on the beef industry in this country at the first opportunity it has had to arrive at a break-even point. It is inconceivable that we would do this, not only because of all the arguments my friend from Iowa, Mr. SMITH, made earlier, but for the very basis of equity itself.

I strongly urge defeat of this amendment.

(Mr. FITHIAN asked and was given permission to revise and extend his remarks.)

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(Mr. GOODLING asked and was given permission to revise and extend his remarks.)

Mr. GOODLING. First of all, Mr. Chairman, I am very sorry that my shoe manufacturers were referred to as being "dumb" by my very respected colleague from Iowa, since I have been very impressed with the manner in which they carry on their activities under almost impossible conditions. I would also hope that my colleague from North Dakota was not trying to make a point that since hides sell for 73 cents a pound, and there are only 3 pounds possibly to a shoe, that it only costs $2.19 then in order to get that hide for the shoe. That is an unfinished product, of course, when it is $2.19.

Mr. Chairman, it has been argued that the imposition of export controls on American-produced cattlehides would constitute an unwarranted impediment to free trade. Certainly, free trade is a desirable goal and as a general policy I heartily endorse it. But when other nations seek to exploit our commitment to that policy to the detriment of the American people, it is time to reconsider that policy in light of particular circumstances which might make for an exception.

In recent years the demand for unfinished cattlehides has grown dramatically, while the production of hides has increased very little. As a result, shortages and major price increases have occurred. In response to this situation, many traditional suppliers of hides have imposed export controls on their production, thereby protecting their own leather goods industry from spiraling costs but further exacerbating the already severe international shortage. As a result, foreign buyers have turned to the United States, which has not imposed controls, to make up the difference.

If the United States were able to make up for this shortfall without depleting the supply needed for domestic consumption, this would not constitute a serious problem. Unfortunately, we are unable to do so as just illustrated by my colleague from Massachusetts. Of the approximately 34 million hides that the United States will produce this year, about 19 million will be needed for domestic consumption. However, foreign buyers are expected to purchase some 24 million, leaving a domestic deficit of 9 million. The results of this deficit are already apparent: The cost of unfinished cattlehides has increased over 150 percent in the past 17 months alone; and the price of finished leather goods is sure to follow. As the price of domestically produced leather goods increases, the American consumer, hard pressed by inflation, can be expected to increasingly turn to less expensive foreign-made goods. Those $90 pair of Johnston & Murphy shoes some of you are sporting today will cost $160 within 6 months or a year. I may buy some merely as an investment. So, American industry will suffer and tens of thousands of American jobs will be lost. All this, because we have failed to act to insure that our own domestic industry receives the raw materials they need at reasonable prices, to compete with foreign producers.

For this reason, I intend to support Mr. SHANNON's amendment. And in the interests of American industry, American labor, and the American consumer, I urge my colleagues to do so, as well.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Virginia.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, the gentleman from Iowa (Mr. SMITH) alluded to a condition of abundance of hides that, in his terms, has existed since the Mayflower landed in Virginia. I have got to point out that Massachusetts was where the Mayflower landed, and the landing in Virginia occurred 13 years earlier with different ships that sailed up a river bounding my congressional district.

Mr. BINGHAM. Mr. Chairman, in view of the pressure of time under which we are operating, I wonder if we can arrive at an agreement on limitation of time.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto cease in 30 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. MAVROULES. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto cease in 45 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. Members standing at the time of the unanimous-consent request was agreed to, will be recognized for 1 minute each.

□ 1630

(By unanimous consent, Mr. JOHN L. BURTON yielded his time to Mr. MAVROULES.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from South Dakota (Mr. DASCHLE).

(Mr. DASCHLE asked and was given permission to revise and extend his remarks.)

● Mr. DASCHLE. Mr. Chairman, I rise in opposition to the amendment being offered by my colleague from Massachusetts, an amendment which would seek to limit the exportation of U.S. cattle hides, until adequate supplies are available to domestic users of hides.

Those who argue in favor of this amendment say that unless hide exports are limited, the leather goods industry will not have to necessary raw materials to provide finished leather products.

Unfortunately, for what some have referred to as a simple solution to the troubled shoe and leather industry, is a

dangerous precedent the result would be literal chaos in the livestock industry.

As has been pointed out here today, the livestock is plagued with the very same problems of inflation and high production costs that every other industry is faced with. This is sometimes overlooked by our friends in the urban areas.

The effect of this amendment on the livestock industry would be to cause a substantial reduction in 1979 hide exports in addition to further reducing hide prices from a 1979 high of 96.33 cents per pound to a June 1979 level of 85.90 cents per pound.

A reduction in hide prices could cause a reduction in cattle prices through a lower return on a valuable part of the animal.

After 4 years of depressed prices, cattlemen are finally realizing a profit. The Shannon amendment would significantly reduce these returns by an estimated $10 or $20 per head.

Hide exports are on the decline, July down more than 5.7 percent. The projection is that they will be lower for the rest of the year.

In addition, the United States is currently negotiating with countries which currently have embargoed its hide exports. Argentina is one country which will reenter the world trade hide market.

Mr. Chairman, I want to conclude by reaffirming my strong opposition to the Shannon amendment. The United States is estimated to be producing more than 34 billion cattle hides this year, with the domestic industry requiring only 18 million.

We should not establish this dangerous precedent.

Our Nation's cattlemen should not have to cary the brunt of the load of the hide industry's reluctance to pay the supply and demand established market price for hides. The hides are there without the necessity of export restrictions, and for that reason I rise in opposition to this amendment.

(By unanimous consent, Mr. DASCHLE yielded the remainder of his time to Mr. FOLEY.)

(By unanimous consent, Messrs. GLICKMAN, SMITH of Iowa, and CAVANAUGH yielded their time to Mr. FOLEY.)

(By unanimous consent Mr. GRAMM yielded his time to Mr. STENHOLM.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. NOLAN).

(Mr. NOLAN asked and was given permission to revise and extend his remarks.)

● Mr. NOLAN. Mr. Chairman, I support the amendment by Representative SHANNON to regulate the export of cattle hides.

The issue has caused a great deal of controversy between the leather goods industry and the cattle industry. According to some critics, the Shannon amendment constitutes an impediment to free trade and therefore should be defeated. Congress should recognize, however, that free trade does not exist for most products because State trading and oligopoly reign in the marketplace. From the viewpoint of both farmers and labor, history reveals that putting wise restrictions on trade is the only way to maintain a continuous flow of goods by assuring a balanced competitive market free from unfair market practices and price gouging.

I believe the Shannon amendment is a wise trade restriction which will help stabilize the domestic leather goods industry and, at the same time, will maintain domestic beef consumption because jobs and income in the leather goods industry will not be jeopardized. Assuring domestic demand is the cattle producers' best bet to maintain cattle prices at fair levels.

By the same token, those who support the Shannon amendment must realize that the economic well-being of U.S. cattle producers is threatened by beef imports. The beef import bill reported out of the Ways and Means Committee also places a wise restriction on trade—assuring price and supply stability for cattle producers and consumers.

I urge my colleagues to support the Shannon amendment and to support the bill to improve the existing beef import legislation. Farmers and labor both stand to gain from cooperation in support of the Shannon amendment and the beef import bill.●

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida (Mr. KELLY).

(Mr. KELLY asked and was given permission to revise and extend his remarks.)

Mr. KELLY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, Government subsidies to help grain farmers constitute a massive Government program which last year totaled $2.3 billion and raised cattle feed out of sight. From 1974 to 1978, the cattlemen of the United States suffered under depressed prices, high feed costs, and high everything else, with the result that hundreds of America's cattlemen went out of business or bankrupt or both.

The Shannon amendment is an effort by one industry to gain an advantage at the expense of the American cattleman. In light of the damage Government programs and interference in agriculture has already done to the cattle industry, the unfairness of the Shannon amendment should not be permitted.

The Shannon amendment, pure and simple, would reduce the price of hides by cutting off American cattlemen from the world markets and of necessity reduce their profits and run up the cost of beef to the consumer. By limiting exports of cattle hides, this amendment will worsen this country's already serious balance of traded deficit. Last year the United States had a net agricultural trade surplus of $15 billion, and cattle hides are the major contribution to this surplus by the cattle industry.

Mr. Chairman, American cattlemen have suffered enough in the past few years. Now that they have a chance to break even, certainly fairness and equity demand the Government not hurt the cattlemen more to benefit someone else.

I earnestly urge my colleagues to vote "no" on the Shannon amendment and to vote "yes" for the American cattlemen and fair treatment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. LEDERER).

(Mr. LEDERER asked and was given permission to revise and extend his remarks.)

● Mr. LEDERER. Mr. Chairman, I rise today to support the Shannon amendment to the Export Administration Act of 1979. I think it an important amendment, which will have a most beneficial effect on our leather goods industry.

This sector of our industrial economy includes tanneries, shoe production, handbags, belts, apparel, and other leather products. A great many people are involved in these industries. However, these jobs may be in danger by the increasing exportation of our Nation's cattle hides. It is time that we realize that our country's many industries cannot operate independently of each other. Many of them are dependent on one another and their business operations should be coordinated. Without a steady supply of hides, the leather goods industry finds itself in a terrible bind. If they cannot attain an adequate supply of cattle hides from America's cattle producers, the leather goods industry is forced to look to the foreign producers. However, they are stymied here by the fact that many foreign governments have imposed export restrictions on their cattle hides. Consequently, our leather goods industries are unable to secure a stable supply of hides for their produotion facilities. Without a coordinated leather goods policy, the leather goods industry is caught between the proverbial rock and a hard place.

The cattle industry, of course, opposes any export restrictions. This is understandable, since it is sometimes possible for them to get a higher price for their hides abroad than they can get in this country. But I find it interesting to note that the cattle producers are such free traders on this issue, and, yet, they can turn around and be highly protectionist on the meat import issue.

We heard the term, "fair trade," used quite extensively during the debate on MTN. Well, I think this issue again brings the concept of fair trade into play. I do not think it advantageous for our country to watch the decline of a domestic industry because they are not able to avail themselves of a necessary, domestically produced resource. I find this unacceptable. I would urge my colleagues to support the amendment of Mr. SHANNON. I think it in the best interest of our country's industrial welfare to do so.●

(By unanimous consent, Mr. LEDERER yielded the remainder of his time to Mr. MAVROULES.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. MOAKLEY).

(Mr. MOAKLEY asked and was given permission to revise and extend his remarks.)

● Mr. MOAKLEY. Mr. Chairman, I rise on behalf of an amendment offered by my colleagues, Mr. SHANNON of Massa-

chusetts and Mr. CARTER of Kentucky to the Export Administration Act (H.R. 4034).

In recent months, the American public has witnessed a significant increase in the price of almost all consumer goods. The price of domestically manufactured shoes, however, has increased at a rate far greater than that of inflation. The domestic leather using industry, of which the shoe industry is a major component, is in jeopardy. Because of the vagaries of this Nation's export policies, it seems that the industry is simply not capable of obtaining a sufficient supply of the industry's prime ingredient: cattle hides.

Massachusetts has over 23,000 individuals who presently earn their living from the shoe and leather-using industry in the State. In the Ninth Congressional District alone, there are some 23 shoe manufacturing companies, employing many thousands of people in the Boston area, whose product output is totally dependent on the availability of cattle and leather hides.

The reason for the seeming inability of American cattle producers to supply sufficient hides for the leather-using industry is self-evident. Since the early 1970's, every single major hide-producing nation with the exception of the United States has imposed stringent controls on the exporting of hides. Consequently, the United States, while producing only 15 percent of the world's supply of hides, now finds itself in the strange position of providing over 75 percent of the world market. The laws of international trade clearly state that this is simply not an equitable situation. The ebbing of U.S. cattle hide inventories has produced a scenario in which the per pound price of leather hides have been allowed to rise from around 40 cents per pound less than a year ago to almost $1 per pound last week. Despite the fact that our local leather-using firms are not able to meet their hide needs. This Nation continues to allow over 80 percent of our domestic hides to be exported, when less than a year before only approximately 50 percent of our hides were exported.

The amendment offered today by my colleagues from Massachusetts and Kentucky would bring order to a completely chaotic situation. The amendment to the administration's Export Administration Act would limit exports to the average percentage exported over the period 1974–77. Controls would be lifted if a reasonable number of other hide producing nations relaxed their restrictions or if the domestic supply began to exceed the domestic demand.

I emphasize that these export controls would apply to hides only. As you are also no doubt aware, before 1973, the Commerce Department had the authority to impose export controls on hides.

This amendment would reduce the price of domestically sold hides and would increase the price of foreign sold hides. Currently, there is little incentive for major importers of hides to relax their restrictions on exports. If the current situation is allowed to continue, nations such as Japan, which are able to produce high-priced leather products due to the devalued dollar, will drive American leather producers out of business.

I urge you to vote in support of this amendment. Certainly the 500,000 American workers whose jobs are directly impacted by our action on this matter deserve no less.

Thank you.●

(By unanimous consent, Mr. MOAKLEY yielded the remainder of his time to Mr. MAVROULES.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. DONNELLY).

(Mr. DONNELLY asked and was given permission to revise and extend his remarks.)

● Mr. DONNELLY. Mr. Chairman, I rise in support of the Shannon-Carter amendment.

In my support for this amendment, Mr. Chairman, I am calling for the end to a critical situation that has placed the American footwear industry in immediate danger of extinction. The situation I am referring to is the acute shortage of cattle hides, the basic raw material of leather manufacture, facing the domestic shoe industry. If current trends are not reversed without delay, domestic leather manufacturers will have only 10 million hides available for their use, approximately one-half that needed to maintain the industry at current levels of production and employment.

What has caused this shortage of hides, Mr. Chairman? It is the result of more than the cyclical rebuilding of cattle herds. It is caused by the voracious, unprecedented foreign purchase of our American hides. While the United States produces only 15 percent of the world cattle-skin supply, in excess of 75 percent of those hides go to foreign manufacturers of leather goods. Those figures do not represent an insufficient domestic demand for hides, Mr. Chairman. Due to the devaluation of the dollar, countries such as Japan and Korea are able to consistently and dramatically attract a major portion of our domestic hides supply. Our already beleaguered shoe industries are engaged in a pricing battle in which cattle hide for shoe leather that cost 37 cents a pound in 1977, and that cost 58 cents a pound 6 months ago, today is priced at almost $1 a pound.

Mr. Chairman, how can we expect our American footwear and leather goods manufacturers to survive under these conditions? Many will argue that the present hide shortage is short term and domestic supply will increase over a 3- or 4-year period. Well, the leather goods industry that directly employs some 500,000 Americans cannot survive even in the short term without immediate relief from this crisis situation. Are we prepared to ignore the plight of shoe manufacturers? Are we prepared to certainly jeopardize the livelihood of hundreds of thousands of American leather goods workers?

The Shannon-Carter amendment is a reasonable, carefully worded, and targeted remedy to the cattle hide situation. Most importantly, this amendment recognizes the overriding objective of our trade laws, that is, commitment to free trade and free market policies. The restrictions on hide exports to reasonable historical levels would only apply as long as other major producers of cattle skins follow export policies contrary to the principal of free trade. Argentina, Brazil, Pakistan, and India, to name only a few, follow policies of stringently controlling their export of hides.

Mr. Chairman, the concept of free trade has been founded on the principal of insuring equitable access to world markets on the basis of mutuality. This amendment recognizes that our trading partners are currently disregarding this principle. Our top priority, therefore, must be to assure that our American shoe industry and workers are able to compete in the international market on a basis of equity and fair trade. To this end, we must assure American leather goods industries legitimate, adequate access to American raw materials, and the 400,000 American workers, jobs.

I urge my colleagues to join me in supporting this amendment.●

(By unanimous consent, Mr. DONNELLY yielded the remainder of his time to Mr. MAVROULES.)

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Maryland (Mrs. BYRON).

(Mrs. BYRON asked and was given permission to revise and extend her remarks.)

Mrs. BYRON. Mr. Chairman, my support for the Shannon-Carter amendment to the Export Administration Act is twofold. First is my concern with the ever increasing price of shoes and other leather goods in this country. And, second, but more importantly, my concern with the number of jobs that may be affected if the U.S. leather industry does not get sufficient hides.

In my home district of western Maryland there are at least a half dozen leather related industries—a tannery, shoe manufacturers, not to mention numerous shoe retailers. I am concerned about the future of these industries. Several of these plants have already experienced layoffs due to the competition from imports.

The Shannon-Carter amendment to the Export Administration Act does not prohibit hide exports. It limits exports to the average percentages exported during the year 1974–77 which amounted to 56 percent.

And, more interestingly, this limit would only exist until such time other hide producing nations relax their restrictions on exports, or domestic supply exceeds domestic demand.

The United States cannot continue to export the high number of hides without dramatically affecting the U.S. leather industry.

Tens of thousands of American citizens may lose their jobs—including several thousand Marylanders—if the plants they are working in shut down or reduce production due to an insufficient supply of hides.

I urge my colleagues to consider the livelihoods of thousands of Americans and vote yes today for the Shannon amendment.

(By unanimous consent Mrs. BYRON yielded the remainder of her time to Mr. MAVROULES.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Tennessee (Mr. BONER).

(Mr. BONER of Tennessee asked and was given permission to revise and extend his remarks.)

● Mr. BONER of Tennessee. Mr. Chairman, hundreds of citizens in the Fifth District of Tennessee have taken the time to let me know how they feel on a matter that reaches to the heart of the economic situation in this Nation. I refer to the export of U.S. cattle hides and skins which drives up the price of domestic leather goods and causes shortages and unemployment in the U.S. labor force.

I wish to state my support for congressional efforts to amend H.R. 4034, the Export Administration Act, to protect our domestic hides and skin industry, and I hope that the House reverses the Senate's July 21, 1979 defeat, by a vote of 46 to 38, of a similar amendment to limit these exports until the President determines there are adequate domestic supplies.

The American leather goods industry, which employs over 400,000 citizens across the Nation, is facing a monumental crisis. It is a crisis already sending shock waves of inflation through the economy. It promises even more serious consequences unless there is simple, direct action taken now.

This is not just a national problem. In the State of Tennessee 12,870 people are employed in the production of leather products. This is down from 19,264 in 1976. Tennessee has the distinction of being the fifth largest producer of footwear in the United States with 30 million shoes having been produced in 1977. The citizens of Tennessee along with the citizens of every other State must be protected from possible loss of their jobs.

Our Government has been standing idly by while foreign nations have been raiding America's supply of domestically produced cattle hides. Meanwhile, American tanners, manufacturers, and retailers are being deprived of the one raw material they must have to provide shoes, clothing, furniture, and other essentials consumers want and need.

It is a travesty and a humiliation that, soon, American consumers may not be able to afford or even to obtain leather products themselves, despite the fact that the United States is the world's major producer of cattle hides.

The squeeze is caused by the unprecedented buying of U.S. hides by foreign countries who do not play by the same fair trade rule book that we do. At the same time, other hide-producing nations, who could help satisfy world demand for hides, hold back their supplies from the world market place. The United States is left virtually the only nation which gives free-buying access to its unfinished hides. Argentina, Mexico, and India—all major producers—close their borders in order to protect their own leather goods industries, workers, and consumers.

Japan, along with most other nations, has clear policies of buying as many American hides as possible to provide jobs for their citizens. These countries are willing to pay just about any price for hides for social reasons, but they do not often feel the high price. Japan, for instance, can outbid American buyers easily with the 15- to 20-percent exchange rate advantage of their yen versus the U.S. dollar. As a result, declining U.S. hide production has not fazed Japan at all. Instead, it increased its share of purchases in 1978, thus aggravating further the critical scarcity of hides.

The United States was the source of 75 percent of the cattle hides exported by all countries in 1978, but was able to export just $234 million in finished leather and leather goods for the year. Foreigners, however, took full advantage of our open-arms import policies and the United States imported $2.4 billion worth of leather goods. The result was an estimated 100,000 jobs lost in the United States for every $1 billion in trade deficit.

The consequences of aggressive and ruthless foreign buying in the United States, particularly by Japan, and denial of access to hide supplies of other producing countries already have been acute.

Prices of cattle hides, by May 1979, reached an average of almost $1 per pound, a cost that causes reverberations throughout the chain of production and marketing. Wholesale prices for cattle hides surged by 91 percent in April of 1979 compared to April of 1978. Retailers will not long be able to keep from passing price increases on to consumers. Manufacturers and retailers of leather shoes and all other leather products face an intolerable dilemma—curtail production or fuel inflation and face a radical downturn in consumer buying.

I do not believe that this amendment will hurt the cattlemen of this Nation as much as the current situation is affecting the leather goods industry. Many American jobs are in jeopardy if the current level of cattle hide exportation is permitted to exist. I cannot stand idly by and watch the jobs of many of the citizens of the Fifth District of Tennessee lost because of governmental inaction in the area of cattle hide exportation restrictions.

It is time to bring economic equity back to the people of the United States. The United States can no longer be expected to bear the burden of reduced supplies alone. We must make a commitment now to allow ourselves a fair share of our own materials, our own hides. If the Government means what it says about cutting the rate of inflation, it must take the necessary actions to insure a long-term adequate domestic supply of hides.●

(By unanimous consent, Mr. BONER of Tennessee yielded the remainder of his time to Mr. MAVROULES.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. CONTE).

(Mr. CONTE asked and was given permission to revise and extend his remarks.)

Mr. CONTE. Mr. Chairman, I rise in support of the Shannon amendment. This amendment seeks to limit exports to the average percentage exported over the period from 1974 to 1977, approximately 56 percent of domestic supply. Yet, such controls would be lifted if either a reasonable number of other major hide producing nations relaxed their restrictions on exports or the domestic supply exceeded domestic demand.

Some may question the need for controls when we are so desperately trying to increase our share of export trade. They will be quick to point out that the balance-of-payments deficit is only now beginning to decrease. They will claim that increasing U.S. exports translates into greater opportunities for employment. They will praise the merits of a free trading system which we have been working so hard to achieve. I admit that each of these is a legitimate and timely concern. Yet, I have come to realize that the situation with regard to hides is, in fact, hurting the U.S. balance of trade, it is creating unemployment, and further that there is neither free, nor fair trade in this commodity.

Currently the United States is exporting over 70 percent of its cattlehides. Of this year's projected supply of 34.2 million hides, 24 million were destined for foreign markets. This is primarily due to the fact that other nations have restricted their export of hides. As demand on the international market exceeds supply, the price has skyrocketed. A small minority are overjoyed with the higher prices. But a far larger group has become victim of both unemployment and higher costs. By April of this year, 10,800 jobs had been lost due to the increased cost of hides to the leather industries. But the even more far-reaching consequence has been the additional $2 billion for leather products which the American consumer has been and will be forced to pay due to higher prices. Without a doubt, the biggest losers will be each and every one of our constituents who will be paying an additional $10 for each pair of shoes and $12 for each handbag.

Some may claim that these controls will hurt the balance of trade. Such claims are unfounded. We will still be exporting over 50 percent of U.S. hides, and at today's prices, this will mean an additional $200 million in revenues. The real balance-of-trade problem results from the fact that the United States cannot compete internationally in the leather products area. U.S. hides frequently return to the United States as a higher valued finished product, yet a product less costly than our domestic goods.

Mr. Chairman, with the rumors of recession occurring with greater frequency, we can afford neither the loss of jobs or the increased inflationary pressures which the lack of controls is now creating. I, therefore, strongly urge that this amendment be adopted.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. MITCHELL).

(Mr. MITCHELL of New York asked and was given permission to revise and extend his remarks.)

Mr. MITCHELL of New York. Mr. Chairman, I would like to address the

problem of the cattle dealers. I really do not think they have a beef in this issue. They may have a lot at stake, but they are giving us a bum steer when they talk about how much they are losing.

The United States produces 15 percent of the cattle hides in the world today. It is projected that in 1979, the U.S. cattle industry will supply 34.2 million hides. Only 50 percent of these would adequately meet the needs of our domestic leather industry.

Yet, the firms manufacturing leather goods in my district in central New York tell me they are facing a major crisis because they cannot buy enough animal hides to keep up their production levels. I received 161 letters, many of which stated the leather business will close unless relief is available soon.

And the American consumer is paying, on the average, $10 to $15 more for a pair of shoes than he paid 2 years ago.

What is the reason for this apparent paradox? Where are all the American cattle hides going?

They are being sold overseas to the highest bidder.

The United States, while producing 15 percent of the world's cattle hides, is supplying 75 percent of the world market, at the expense of our domestic leather industry. The most recent statistics available show that in March and April of this year, 83 percent of the cattle hides produced in the United States were sold for export, leaving American leather industries with only half the number of hides the industry needs to keep going.

The bulk of the exported hides are going to countries like Japan and Korea. Because of their huge consumer demand and a favorable exchange rate, they can afford to outbid our leather goods manufacturers.

In the meantime, other major hide-producing countries maintain strict export controls on their hides, to protect their own domestic leather industries.

These countries can send finished leather products to the United States, assured of a good competitive edge over American manufacturers who are scrambling for an adequate supply of cattle hides.

To add insult to injury, many of our foreign competitors refuse to import American leather finished products. Again, they are seeking to protect their own.

I believe in free trade but I feel it must also be fair trade. By filling the worldwide gap in supply and demand created by countries who have embargoed their cattle hides, the United States is the only free-market trader in an imprisoned market.

It is bad enough that rising exports have meant a 154-percent increase in the price of cattle hides in less than a year and a half. It should be a major concern of this body that the trade deficit in the finished leather goods sector was $2.5 billion in 1978, almost 9 percent of the entire U.S. trade deficit.

We must also recognize that the leather goods industry represents 400,000 jobs in this country. The manufacture of leather products is a labor-intensive enterprise that often employs the less skilled worker—individuals who might have a difficult time finding another job even in a healthy economic climate.

In the first quarter of this year, unemployment in the shoe industry was nearly double the national average at 10.7 percent. Employment is steadily dropping, and manufacturers are giving their employees unwanted, extended vacations, because they have no leather for them to work with.

The amendment introduced by Representative SHANNON is not a regressive, protectionist measure that will hurt us in the long run. It is a necessary action produced by the unfair competitive practices of other countries who erect trade barriers at the expense of our domestic leather industry.

I feel Representative SHANNON's amendment represents a fair and balanced solution. I strongly urge my colleagues to support it.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Mississippi (Mr. HINSON).

(Mr. HINSON asked and was given permission to revise and extend his remarks.)

Mr. HINSON. Mr. Chairman, I rise in opposition to the Shannon amendment. I am very sympathetic to the problems of our shoe industry, but I suggest that these problems are more complex than this amendment would indicate, and are not the subject of a catch-all solution such as that posed in this amendment. The manufacture of shoes is only a part of a chain which begins with a cattleman raising cattle for the meat they produce and, importantly, for the international hide market, a large portion of which has traditionally come from the United States to the benefit of the American leather industry.

The distinguished chairman of the Small Business Committee (Mr. SMITH), is right. Restricting the export of American hides will only harm the shoe manufacturers of this country because it will force foreign producers to go even further into the artificial leather market. It will also result in the increased importing of foreign shoes, shoes which will not be made from American hides. Adoption of this amendment will also have the effect of glutting the U.S. hide market, dramatically forcing downward the price American cattlemen are presently receiving for their hides. For the first time in many years, American cattlemen are receiving a fair price for their beef and for their hides. Forcing an instant depression in the hide/cattle market in order to benefit another market is destructive and will not solve the long-term problems of the shoe industry. I urge the rejection of the amendment.

(By unanimous consent Mr. HINSON yielded his time to Mrs. HECKLER.)

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Nebraska (Mrs. SMITH).

(Mrs. SMITH of Nebraska asked and was given permission to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Massachusetts (Mr. SHANNON). In recent weeks, I, like all of you, have been bombarded by conflicting reports concerning the importance of cattle hides to the leather industry.

Regardless of whether the cost of a hide contributes 5 percent to the cost of making a shoe as some reports say, or 40 percent, as others claim, the fact still remains that shoe prices have not shown a decline since 1965, according to the Bureau of Labor Statistics, while cattle numbers and prices, on the other hand, have undergone great fluctuation throughout the years.

In fact, the price of hides has actually decreased 45 percent from their highs earlier this year. But have we seen a decrease in the price of leather products? Obviously not; only increases. This indicates to me that there must be other more costly production inputs than leather.

I sympathize with the leather industry in light of the difficulties it has in obtaining access to markets in other countries. However, let's not solve its problems at the expense of other Americans, including cattlemen and all consumers.

I am actually amazed that we are even considering this type of legislation. It seems we would have learned by now what effect Government tampering has on agricultural commodities. Cattlemen are just now recovering from severe economic losses in which the beef price freeze of 1973 played a large part.

Beef producers need all the encouragement we can give them in order that they will continue to take the risk of rebuilding their herds. If this amendment is passed, it will most surely mean reduced prices for domestic hides. The decreased prices will not be absorbed by meatpackers as they are already operating on a very thin profit margin. These losses in revenue can only be passed on. They would be and are being passed on in the form of reduced feedlot prices to cattle producers, which will discourage meat output and result in subsequent increases in meat prices to consumers.

Most of my colleagues will agree that meat prices are determined by supply and demand. I ask you, assuming demand stays the same as predicted, what about supply? Do you think that cattlemen will raise more calves when they see the price of their finished product going down? No, of course not. American cattlemen are sick and tired of Government regulation and meddling in the meat industry.

According to the USDA task force report of July 1979, the proposed export controls would result in a $30 to $40 decline in the average wholesale price per hide. This in turn would mean a $17 to $23 reduction in prices offered to the producer of a live animal. This would be disastrous because of the deterioration of the current hide price situation.

Hides bring only about $30 each to farmers now, down from $54 each earlier in 1979. Moreover, Japan and South Korea are reporting unduly large inven-

tories of hides. Choice slaughter steer prices have already declined from their April high of near $78 per 100 pounds to $68.45 per 100 pounds today, September 18, 1979. The additional $17 to $23 reduction per animal from export controls would translate into a $2 per 100 pounds additional drop. An embargo at this time would be completely unjustified.

The important point is that the break-even costs for cattle to be marketed this fall, which are in the feedlots now, has risen to about $75 per 100 pounds on the hoof—well above present live cattle prices—without even taking into account the additional $2 per 100 pounds drop from proposed export controls. Thus, producers already face another loss position.

As most of you know, agricultural products are one of the few commodities that help our deplorable balance of trade. Cattle hides play a surprisingly large role in trying to improve that balance of trade. In 1979, an estimated 19 to 20 million hides worth $600 to $800 million will be exported. This is down from 1978 when 24.8 million hides were exported worth $687 million and up almost 50 percent from 13.6 million hides 10 years earlier worth only $100 million. Let us not jeopardize this valuable export product.

In closing, I suggest that we let the leather industry compete on the open market like the cattle industry does, and try to solve the leather industry's problems through other means, such as reducing inflation, Government imposed costs, and trade barriers abroad. I urge your support in the defeat of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. SEBELIUS).

(Mr. SEBELIUS asked and was given permission to revise and extend his remarks.)

Mr. SEBELIUS. Mr. Chairman, the thing that bothers me most about amending the Export Administration Act to limit hide exports is that it shifts a problem from one economic segment, the leather goods manufacturing industry, to another economic segment, the cattle industry and the consuming public.

This amendment does not solve the problem. The problem is not the availability of hides, it is the price. The only fair way to reduce the price of hides is to increase production.

Earlier, Mr. GLICKMAN and I sent a copy of the USDA task force report on the hide problem to every Member of the House of Representatives. On pages 27 and 28 of that report you will find an explanation of why I oppose this amendment. Proponents of the amendment argued that controlling exports would not hurt cattle producers.

USDA disagreed:

A $30 to $40 decline in average U.S. hide prices would reduce the byproduct credit for a 1,000-pound steer by $17 to $23. Assuming that packers currently are operating on very tight margins (many packers recently reduced their operations by temporarily closing or laying off some of their workers because of low or negative operating margins), then they would be unable to absorb this cut. This would mean that the packer would then offer $17 to $23 per head less to the producers for the live animal.

One reason why current slaughter is off so much is that cattemen are now taking steps to rebuild herds. If they perceive lower prices in a negative sense, then rebuilding could be slowed. Near-term slaughter volume would remain a little above the level currently expected without their negative perception of this action.

Longer term supplies, however, would be lower, resulting in both reduced hide and meat supplies and higher prices. Consumers would pay more for both meat and leather products in the long run, given this reaction by cattlemen.

The USDA report also concluded that export controls would not solve the long-term problems confronting the leather products manufacturers. The problems of low productivity and competition from imported leather goods would still remain.

What could consumers expect from a hide export embargo? According to USDA, a 40- to 50-percent decline in hide prices could result in only about a 2-percent reduction in wholesale footwear prices. USDA did not think this would happen:

However, prices for leather goods are not likely to decline, even if average U.S. hide prices were to drop substantially. In years past, when hide prices rose sharply, prices for leather goods did not increase as rapidly as hide prices. On the other hand, prices for leather goods have not declined when hide prices fell. For example, since 1965 there has not been a decline in the quarterly index of wholesale footwear prices as reported by the Bureau of Labor Statistics.

In the longer run, prices of domestic leather goods would continue to rise. Domestic manufacturers have found it increasingly difficult to compete with foreign manufacturers. U.S. export controls on hides would cause prices of foreign produced leather goods to rise and this would help domestic manufacturers better compete with the foreign manufacturers by allowing them to raise prices on domestic products.

Mr. Chairman, this does not sound too much like helping consumers to me. Instead, we could be helping the leather manufacturing industry raise prices. At the same time, we would be discouraging domestic cattle production, leading to declining supplies of and higher prices for beef and leather.

In recent weeks, domestic hide prices declined almost 50 percent, from 90 cents per pound on June 1, to 51 cents now. For that reason alone I question whether this amendment is necessary.

There are other reasons, too. We need to look at what already has been done to help this industry. The United States and Argentina have negotiated an agreement which will put 14 million to 16 million additional raw cattle hides on the world market. U.S. tanners will be able to buy these hides. Passage of this amendment would nullify this agreement, I am told.

The special representative for trade negotiations also has asked Brazil and Uruguay to increase their hide exports. I understand negotiations are continuing. Passage of this amendment certainly would destroy this initiative.

The United States has negotiated orderly marketing agreements with Korea and Taiwan under which these two countries agreed to limit exports of nonrubber footwear to the United States. The restraining period runs through June 30, 1981.

In addition to these agreements, the President directed the Economic Development Administration to fund a program to revitalize the nonrubber footwear industry. Under the Trade Act of 1974, firms from any industry injured by imports can receive financial and technical assistance if they meet the statutory criteria of the act—declining employment coupled with declining sales or output. To date, more than two-thirds of the 130–150 firms estimated to qualify for benefits have been certified eligible.

Foreign purchasers acknowledge they overbought this spring and will be eliminating or reducing further purchases for the remainder of this year.

In short, Mr. Chairman, this amendment is not needed, will not help the leather products industry over the long term, and will hurt the national economy and balance of trade now and in the future. I urge the defeat of this amendment.

Thank you.

AMENDMENT OFFERED BY MR. ERTEL TO THE AMENDMENT OFFERED BY MR. SHANNON

Mr. ERTEL. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. ERTEL to the amendment offered by Mr. SHANNON: Add the following sentence before the closed quotation marks at the end of the amendment: "The Secretary of Agriculture shall, by exercising the authorities which the Secretary of Agriculture has under other applicable provisions of law, collect data with respect to export sales of animal hides and skins.".

Mr. ERTEL. Mr. Chairman, the amendment offered by the gentleman from Massachusetts (Mr. SHANNON) and the gentleman from Kentucky (Mr. CARTER) is an extremely important one for our domestic leather products industries. As the other hide-exporting nations have closed their doors on the international demand to satisfy their own needs, the United States has become virtually the only exporter of hides. This has meant that at a time when we have experienced a short-kill in cattle—which is the source of hides—the international demand for these fewer hides has increased dramatically. This has resulted in spiraling prices for hides. It has not only reduced the availability of hides, but it has also placed hides out of the reach of many of our leather-products industries—not to mention their customers. Immediate action is neded to prevent the loss of many of our jobs and businesses—action of the type offered in the Shannon/Carter amendment.

The amendment is a fair one. We are not dealing with an open and free international market. Instead, it is one of forced and contrived shortages through the actions of other nations. By the adoption of the amendment we are simply acknowledging the fact that at a time of distorted market pressures, we must insure that our own industries are not destroyed because of the selfish actions of other countries. We are not the cause of the international shortage, but

we must live with it and deal with its consequences.

We are not closing our doors as other nations have by adopting the Shannon/Carter amendment. We will continue to supply the world market with the same percentage of our domestic hide supply that we have in the past. Any international scarcity is not of our doing, but our actions may motivate nations which import hides to vigorously encourage the former hide exporting nations to again open their doors for free and fair trade. We have attempted to do this through the Office of the Special Trade Representative. Unfortunately, we have met with no success. We must not allow our own industries to be destroyed because others have chosen to close their markets.

Mr. Chairman, my amendment to the Shannon/Carter amendment is meant to insure that timely and accurate information on the supply and demand of our hides is available to both the administration and our domestic industries. This is important so that the provisions of the Shannon/Carter amendment can be effectively carried out.

I would point out that the Secretary of Agriculture currently monitors the market and supply of various grains. This amendment would not require the creation of any new process. It simply places hides among those items which are routinely monitored by the Department.

Without the monitoring of hides which would be required by my amendment, the provisions of the Shannon/Carter amendment would have to be implemented on past data modified by historical trends. Given our past experiences of major fluctuations in this market, it is important that we have timely and accurate information upon which to implement the provisions of the Shannon/Carter amendment. Therefore, I urge my colleagues to adopt this perfecting amendment to the amendment, and I urge the adoption of the Shannon/Carter amendment.

Mr. SHANNON. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Massachusetts.

Mr. SHANNON. Mr. Chairman, I have no problem with the gentleman's amendment. I think it perfects my amendment, and I intend to support it.

Mr. ERTEL. I thank the gentleman.

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma (Mr. ENGLISH).

Mr. ENGLISH. Mr. Chairman, I think one thing must be kept in mind with regard to this particular amendment—namely the situation facing the cattlemen.

There is no question, as a result of the Nixon price freeze on beef in 1973 that drove cattle prices to disastrously low levels.

I think we should look at exactly what took place with regard to the leather industry after 1973. Between 1973 and 1978, with extremely low cattle prices and cheap hides, shoe production declined 3 percent in the United States. Clearly cheap hides did little to assist the shoe industry. Early in 1979 the price of hides rose along with cattle prices bringing about this amendment, but since May hide prices have dropped 45 percent.

We should also keep in mind, as pointed out by the gentleman from Iowa, that leather makes up less than 10 percent of the price for shoes produced in this country, therefore cheap hides do not mean cheap shoes. In fact, the best way of reducing the price of hides is to encourage cattlemen to produce more which also assists the consumer of meat. Good cattle prices today are encouraging cattlemen to expand their herds but we should also keep in mind it takes nearly 3 years to produce those hides and that beef for tomorrow's market. An error in adopting the Shannon amendment and therefore encouraging cattlemen to possibly reduce the size of their herds will take years to correct.

I strongly urge the defeat of the Shannon amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, looking very short term, this amendment might fit the bill as something we want. Because of those short-term policies we have the problem we have now in agriculture. It is the same short-term policies like the Nixon price freeze and the increase in beef imports that has gotten us into our present condition where there are not enough cattle to provide the sort of prices the shoe industry wants to pay for the hides they need.

Mr. Chairman, let us not be shortsighted in looking at the problems with which we deal here today. Let us look at the long term, let us look at those policies that will encourage the investment of the cattlemen in the industry so there will not be the shortage of the raw materials we need.

For that reason, Mr. Chairman, I urge voting against the Shannon amendment.

The CHAIRMAN. The Chair recognizes the gentlewoman from Maine (Mrs. SNOWE).

(Mrs. SNOWE asked and was given permission to revise and extend her remarks.)

Mrs. SNOWE. Mr. Chairman, it seems we have heard a number of different problems here today regarding the cattle industry and the shoe industry. I believe there are certain issues which have been overlooked. Insofar as the export of hides to other countries and trading with other countries is concerned, other countries in fact restrict their own export of hides in order to protect their own domestic industry.

Mr. Chairman, should we clearly sacrifice our interests, the consumers' interests, the workers' interests, the industry's interests to the anticompetitive nature of other trading partners? Where is the trading equitability in this whole formula? We are not only talking about 20,000 employees in Maine working in the shoe leather industry. We are also talking aobut 400,000 workers across the country. Where is the trading equitability, where is the reciprocity? I think that is what we are talking about here today.

The CHAIRMAN. The Chair recognizes the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. Mr. Chairman, I would like to restate what we pointed out earlier in this debate. The farmer is getting a bum rap in this with some phony statistics. The price of cattle hide has gone up 12 cents in the last year, from 61 cents in Chicago to 73 cents. As I said earlier, I do not have more than 2 pounds of leather in my pair of shoes. That is 24 cents additional. If we want to put a lid on hide prices, we increase what the farmer has to get for the other parts of the steer. I do not think too many Members of this body want to increase the price of hamburger and a host of other things.

Mr. Chairman, I think also it is a bum rap because every steer hide produced in this country is there for the bidding of the local leather industry before it can go overseas. Finally, I think someone should very earnestly point out that the return on the hide is three times the average profit the farmer-feeder makes on the entire steer and to jeopardize that is not playing fair with the feeding industry in this country.

The CHAIRMAN. The Chair recognizes the gentleman from South Dakota (Mr. ABDNOR).

(Mr. ABDNOR asked and was given permission to revise and extend his remarks.)

Mr. ABDNOR. Mr. Chairman, I, too, want to merely point out that if anyone with an open mind has been following this debate they certainly will have to recognize the fact that the price of hides is a very, very small part of the shoes you are wearing. It is quite easy to try to make a fall guy out of someone on the rising prices.

Prices are going high and I think there is plenty of blame for everyone to share. I think we should stop and think of this very carefully before we start to destroy another major industry of this country that has just started to make something of a small recovery.

Mr. Chairman, I rise in strong opposition to the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Wyoming (Mr. CHENEY).

(Mr. CHENEY asked and was given permission to revise and extend his remarks.)

Mr. CHENEY. Mr. Chairman, I rise in opposition to the amendment. I think the basic fundamental principal here has been well stated by the gentleman from North Dakota. The fact of the matter is that the shoe industry in America today has difficulties. It has a lot to do with things other than cattle hides. The fact of the matter is this is a blatant attempt to use the power of the Federal Government to advantage one sector of the economy by disadvantaging the other, by placing restrictions on our capacity to sell our agricultural exports overseas. I hope the amendment will be defeated. I think it deserves to be defeated overwhelmingly.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. HANCE).

(Mr. HANCE asked and was given permission to revise and extend his remarks.)

Mr. HANCE. Mr. Chairman, I rise in opposition to the Shannon amendment. I think the main thing we need to consider is last year we had a trade deficit in this country of approximately $30 billion. Had it not been for agricultural products we would have had a trade deficit of over $60 billion. The end result of this amendment if it is passed will label us an unreliable supplier of agricultural exports, even though cattle hides make up but $600 million of our exports. It will label us in all agricultural products and I think that is the main thing that should be taken into consideration.

I urge a no vote on the Shannon amendment.

□ 1650

The CHAIRMAN. The Chair recognizes the gentleman from Colorado (Mr. KRAMER).

(Mr. KRAMER asked and was given permission to revise and extend his remarks.)

Mr. KRAMER. Mr. Chairman, I rise in opposition to the amendment.

We cannot afford to undermine our ranchers and farmers any further. Each year more of our family farms and ranches go under because they cannot keep up with inflation and Government-imposed costs.

Yet, the Congress now contemplates restricting the market for cattle products.

The fact of the matter is that U.S. tanners are free to buy as many hides as they can use. But, instead of rising to the challenge of competing with Italian shoe manufacturers for this material, they seek to bludgeon their own hard working fellow Americans who work long hours, often rising before dawn, protecting and sheltering their breeders in the harsh winters that grip the rangelands.

Cattle ranchers work hard to produce the beef and hides that pay their mortgages, medical bills, and equipment payments, and taxes. Their margin of profit is very tight.

It is worth noting that only 15 to 20 percent of the price of a pair of shoes in the United States is materials. Most of the cost is labor, transportation, manufacturers' profits, and others.

U.S. hides can be an important source of offset for our balance of payments. Our unequal balance of payments continues to drain away the strength of the American dollar. Hide exports represent a part of that battle to become a net exporter. According to the National Cattlemen's Association we exported $685.7 million worth of hides in 1978. That makes up for a lot of Fiats and Toyotas.

Let me emphasize the point that if our shoe industry is successful in imposing these restrictions on the cattle raisers markets then as the family farms and ranches disappear with increased frequency, there will be even fewer hides to purchase.

Since when has restricting the market for anything ever increased its supply?

Under the proposed restrictions the American rancher will either have to increase his on-the-hoof price to make up for his lost market for hides, or else go out of business. Either way the American consumer will lose if the heavy hand of big Government is placed on this already hard-pressed segment of our economy.

The Congress should not undertake to pit one segment of our economy against another. We certainly should not undertake to increase the price of beef for American families by artificially forcing down the price of hides. I urge my colleagues not to contribute to the inflation rate of yet another commodity—meat on the table.

The CHAIRMAN. The Chair recognizes the gentleman from Montana (Mr. MARLENEE).

(Mr. MARLENEE asked and was given permission to revise and extend his remarks.)

Mr. MARLENEE. Mr. Chairman, I rise in opposition to this sham, this self-interest amendment brought to this floor by an industry interested in buying cheap hides at the expense of the producer. There is no shortage of hides but a shortage of willingness to compete.

The price of a hide has little bearing on the price of a pair of shoes. The livestock industry could give these hides away and the price of shoes would remain the same.

To support this self-interest bill is to support a raid on the economy of an industry, a war on the West.

(By unanimous consent, Mr. MARLENEE yielded the balance of his time to Mr. JOHNSON of Colorado.)

The CHAIRMAN. The Chair recognizes the gentleman from Nebraska (Mr. BEREUTER).

(Mr. BEREUTER asked and was given permission to revise and extend his remarks.)

Mr. BEREUTER. Mr. Chairman, I rise in opposition to the gentleman's amendment.

Mr. Chairman, I represent what is probably the largest cattle slaughter district in the United States. My constituents have seen hide prices drop over 19 percent from their high earlier this spring and they continue to go lower. June 1 price was 90 cents per pound compared to a price of 73 cents today. To restrict exports of hides would most certainly have a negative reaction on the cattle industry. If cattlemen perceive lower prices, then rebuilding herds most certainly will be slowed. This could only result in a cost increase for consumers in meat products, as well as other beef byproducts.

Mr. Chairman, with regard to helping the ailing shoe industry, I like to quote from a USDA task force report on this matter:

> In the longer run, prices of domestic leather goods would continue to rise. Domestic manufacturers have found it increasingly difficult to compete with foreign manufacturers. U.S. export controls on hides would cause prices of foreign produced leather goods to rise and this would help domestic manufacturers better compete with the foreign manufacturers by allowing them to raise prices on domestic products.

Mr. Chairman, if we are to believe the Department of Agriculture, it appears to me that by accepting this amendment, we will be increasing prices, rather than trying to keep them down, and Mr. Chairman, that can only mean bad news for the cattlemen, as well as the consumer. I wholeheartedly urge all my colleagues to reject this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado (Mr. JOHNSON).

(Mr. JOHNSON of Colorado asked and was given permission to revise and extend his remarks.)

Mr. JOHNSON of Colorado. Mr. Chairman, one point that has not been raised yet is why the period of 1974 to 1978 is regarded as the historical period. That is a diabolically chosen period of time. Why not 1965 to 1969 or any other similar time? Why 1974–78?

Well, the reason is that because at that time we had the highest level of cattle herds that we have had in the United States and we had the liquidation of the herds going on at that particular time. What final effect this 1974 to 1978 period of time will have on our future exports of hides is really unknown now but it will be damaging to the cattle industry.

During that period, 1974 to 1978, the cattlemen went broke across the West in huge numbers. They are just now beginning to recoup and this kind of special interest legislation is the most unfair kind of legislation that is imaginable.

We are trying to subsidize one industry by removing their foreign market and creating a buyer's market locally. It is unfair, it seems to me, to penalize one segment of the economy to try to benefit another segment of the economy. If you want to subsidize the shoe industry, subsidize it, take care of it, but do not subsidize it at the expense of the cattle industry.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. FOUNTAIN).

(Mr. FOUNTAIN asked and was given permission to revise and extend his remarks.)

Mr. FOUNTAIN. Mr. Chairman, I yield to the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS. Mr. Chairman, I thank the gentleman from North Carolina.

I rise in opposition to the Shannon amendment.

I would like to say, any person who is in favor of this amendmet will actually be endorsing the rising prices in the cost of meat over the meat counter. As most of us know, the cattlemen in this country have been losing money for 4 years. As a result, today they are finally moving into an area where they might be able to see a break even point and be able to pay back some loans and some notes at the banks. If they see a decrease in the price of hides occur in this country, they are going to find that they cannot meet those feed bills and find themselves in an even more desperate position. As a result, they are going to cut their herds and that will increase the price at the meat counter and every consumer in this country is going to have to pay it. I think that point needs to be considered when making your decision. I urge you to vote no.

The CHAIRMAN. The Chair recog-

nizes the gentleman from New Hampshire (Mr. D'AMOURS).

(Mr. D'AMOURS asked and was given permission to revise and extend his remarks.)

Mr. D'AMOURS. Mr. Chairman, I have sat here and listened to this debate. It occurs to me that there are some misrepresentations being made; but more importantly, the entire point of what we ought to be debating is being missed. I hope this issue does not resolve itself into a determination of whether we have more cowboys than cobblers in this country, or wealthier cobblers than cowboys, or vice versa.

The question is fair trade. That is what everybody is purporting today to defend.

I will acknowledge that I have some of those, almost half a million leather workers, including shoe workers, living in my district. I will acknowledge that recently a seal tannery in my hometown was closed partially because of this problem and some 200 people were put out of work; but let us keep our eye on the important point. That is whether or not we are fairly or unfairly acting in this respect.

We produce 15 percent of the hides in world commerce. We export approximately 70 percent of all the hides in international commerce.

This amendment does not ask for anything untowardly. This amendment says let us cut that back to about 56 percent. It is pretty generous when you consider that the other major producers of hides, Brazil, exports none, Uruguay none; Argentina none, except until recently.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

(Mr. BOLAND asked and was given permission to revise and extend his remarks.)

Mr. BOLAND. Mr. Chairman, the industries in this country that use cattle hides are currently facing a supply crisis. In the last 3 months, more than 80 percent of the cattle hides produced in this country have been exported. This mass exportation of hides has left the leather-using industries of this country without their basic raw material to insure a supply of hides to the U.S. shoe and leather industries. Failure to provide relief for these industries will mean the end of thousands of jobs, bring economic disaster upon many communities with large shoe and leather operations, and cost the American consumer millions by forcing them to purchase expensive imported footwear.

I believe we must act to control the number of hides available for exportation. The amendment offered by Mr. SHANNON of Massachusetts would bring hide exports back to the more reasonable levels of 1973–77. As other nations have closed off hide exports, the United States has become virtually the only major supplier of hides to the world. This country produces 15 percent of the world hide supply, but provides more than 75 percent of the hides traded on the international market. This is an unfair game and U.S. industry and U.S. consumers are getting clobbered. The Shannon amendment would bring stability to the hide supply available for use in this country.

More than 1 million Americans are employed in leather-using industries. We must act here and now to protect these jobs. No one likes to use export controls to correct a difficult market situation. However, in this case we have no choice. These controls would be lifted when either of two basic events occur in the cattle hide market: First, other hide-producing nations renew their exports, or two, domestic supply exceeds domestic demand. These provisions will insure that these controls will be lifted when the current, unfair hide situation is corrected. I urge my colleagues to support this important amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. FOLEY) for 5 minutes.

(Mr. FOLEY asked and was given permission to revise and extend his remarks.)

Mr. FOLEY. Mr. Chairman, I think we ought to deal a little bit in statistics which I realize Members are tired of hearing cited. But to be fair about it, in the debate today confusion has arisen as to the difference between the cost of hides and the cost of leather. The price of shoes is not controlled only by the cost of the raw price of hides to manufacture the shoes. I do not deny that the $8.80 cost for leather for a shoe that sells for about $53 at retail has increased approximately $4.40 in the last 5 years which is not insignificant. But this increase in the raw price of hides is not responsible for $130, $140, or $160 shoes, as the gentleman from Pennsylvania suggested a few moments ago.

Also, it is unfair to suggest that by creating a forced and unnatural depression in the price of hides, somehow 400,000 leather and shoe manufacturers are going to have their jobs saved and the shoe industry is going to suddenly have a prosperous and bright future.

The shoe and leather industries have other problems, grave endemic problems that are not occasioned by the rise in the price of hides.

Indeed, the Department of Agriculture statistics, which the gentleman from Massachusetts quotes, indicate that the cost of leather has only been a little bit higher than the general cost of manufacturing the shoes.

□ 1700

For indeed, this amendment creates a special price control on hides. It singles out this one product in this one industry and, for the first time in an amendment to the Export Control Act specifically restricts a nonstrategic product from export.

The suggestion has been made that we are being exploited by other countries, because they have cut off the supply of hides for export. Argentina has recently announced that it will permit exports. Canada permits exports, New Zealand permits exports, and Australia permits exports. All of those countries are major producers of hides.

It is said that while we produce only 15 percent of the world's hides, we export 70 percent. Time and time again I could quote similar figures with respect to our agricultural products. We only produce a fraction of the world's wheat. We produce half as much as the Soviet Union. We are not the biggest wheat producer, but we are the world's biggest wheat exporters, just as we are of many agricultural products. And thank God we are, because these and others are making it possible to keep the dollar afloat—barely afloat.

If we start a process of protecting every industry with restrictions on exports, we are being just as protectionist as if we limit imports. For while it may be protectionism in a less familiar form, it is protectionism all the same; the cost will be an ever increasing weakness of the dollar abroad and more inflation at home. Sam Rayburn used to say, "When you are in doubt, vote your district."

Most members are not in much doubt about that amendment if their districts include many shoe manufacturers or cattlemen. I make no appeal to them, because they know how they will vote on this issue. I respect their judgment and sense of responsibility to their constituents. That is part of what it is to be a Representative in this House.

I do want to talk for a moment, however, to those Members who neither represent great cattlemen's associations nor have great numbers of shoe or leather manufacturers. To Members in that group who may be in doubt, I would suggest that they consider this issue in a wider framework than as an issue particular to shoe or the leather industries on one side and the cattle industry on the other. Instead, I would suggest they think about our future as a trading nation; the consequence to the strength of the dollar; and the course of inflation if we continue to decline as a major trading nation.

I suggest the Members think about the danger that this innocent-sounding amendment may well become just the first of a long long line of amendments, presumably to protect a particular company or industry, then a group of workers, and so on. It will be difficult to say no to any company, any union appealing for special help.

And what of the dollar, of inflation, of the role of this country as a trading nation? I can see a very bleak export future for our Nation, if we approve this amendment today.

Mr. Chairman, I admire the gentleman from Massachusetts (Mr. SHANNON). I know he is representing his district with sincerity and great effectiveness and yet know that many stand with him. I would hope that every Member who does not feel compelled by constituency or commitment to vote for this amendment would stand with those of us who plead for a broad or national and world economy; for the free and expanding trade that has made this country great in the past and offers us the only hope for economic development and prosperity in the future.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank

the distinguished chairman of the Committee on Agriculture for yielding.

I think the gentleman has made a splendid statement. It is one which I wholeheartedly endorse, and I hope, too, that the House will listen to the gentleman's suggestions.

Mr PICKLE. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I want to add my comments to those of the gentleman in the well. He has made one of the most impressive comments I have ever heard on this question.

Mr. Chairman, the restrictions and protection which would be imposed on U.S. hide exports by this amendment are not what is needed at this time. The U.S. leather-goods-producing industries are having a difficult struggle at the present, but it is not clear that this amendment would be the answer to their prayers and solve their problems. There are other courses of action which would relieve their situation.

The U.S. leather-goods industry is suffering from a severe shortage situation caused by rapidly rising prices for raw cattle hides and a simultaneous short supply of those hides. This situation is the result of the United States shipping abroad a large percentage of its raw cattle hides. But it is also largely a result of the crisis which hit the U.S. cattle industry recently which caused severe cutbacks in herds.

It is very likely that this high price/short supply situation is one which will soon evolve its own solution without any legislative action from this body.

The U.S. cattle industry is now in a state of rebuilding. Within a year, or a year and a half, or 2 years, this cycle of rebuilding should be well on its way and hides should be more plentiful. In addition to this, already we have seen a drop in hide prices from the heights they reached this spring. Why do we need the restrictions on exports this amendment would impose if these restrictions might harm us in the international marketplace, and if this situation will very likely resolve itself without our action?

This summer we dealt with the multilateral trade bill. The point of that bill and the international negotiations behind it, was to make international trade take place in a freer market. However, no sooner have we voted "aye" on that "free trade" bill than we have turned around and tried to place all sorts of special-interest restrictions on our exports and imports. This is hardly in the same spirit of that trade bill.

The cattle people have asked less from their Government than any industry in America. Even when prices have been the lowest, and the cattlemen are being hurt the worst, still the cattlemen have "hunkered down" and rode out the crisis. We ought to help the cattlemen now. Passing this amendment further hurts the cattle industry. It should not be passed. There are better ways to help the leather industry, and we should pursue those courses. We do not help our country by restricting exports. Thank goodness.

Mr. FOLEY. Mr. Chairman, I thank the gentleman from Texas (Mr. PICKLE) for his remarks.

(By unanimous consent, Mr. ERTEL yielded his time to Mr. D'AMOURS).

Mr. D'AMOURS. Mr. Chairman, I would like to caution my brothers in the House and my sisters in the House and state that the remarks just made about the new attitude of Argentina would not bear very close scrutiny, because we will find that agreement is in fact not an agreement. It is something they cancel at any time they desire to do so.

The question is, as the chairman of the Committee on Agriculture said, broader than provincial interests and broader than parochial interests.

Let me ask this of the Members: How can we be for fair trade if we are for unfair trade? We cannot have it both ways.

The basic figures have not been disputed. The fact is that this is not a free market, but that we are competing with absolute embargoes.

Mr. Chairman, I rise in support of this amendment to H.R. 4034, the Export Administration Act amendments of 1979, which will serve to relieve our domestic leather producing and consuming industries from discriminatory trade practices of other nations.

While this country produces only 15 percent of the world supply of cattlehides, we provide 75 percent of the hides traded on the open market. Other major cattlehide producing nations—particularly Argentina, Brazil, Uruguay, and South Africa—severely restrict the exportation of their cattlehides so as to protect their domestic industries. We are not dealing here with an open marketplace which provides each participant the normal protection afforded by a competitive trade environment. In the instance at hand we are dealing with a marketplace which is by design injurious to that nation which allows its commodity to be traded freely throughout the world.

The discriminatory hide trading environment is hurting our domestic industries. With the closing of Seal Tannery in Manchester, N.H., 200 people have lost their jobs. Shoe shops are closing and consolidating operations. Retailers of domestic leather goods are finding their customers going elsewhere as a result of the higher prices. None of these industries are looking for protection from competition—they are looking for the establishment of a fair trading environment in which they can compete on an equal footing with other nation's manufacturers. The amendment before us will allow for the creation of such an environment.

The result of this amendment will not be to cut off completely the export of U.S. hides as other nations are doing. The amendment simply calls for limiting the number of U.S. hides to be exported so that enough are retained domestically for use by our industries. Our domestic industries require annually approximately 18 to 20 million hides, but if trade is allowed to continue as is, our industries will only have half this amount available to them. Further, these limited restrictions will only remain in place until the other hide producing countries allow their hides to be traded on the open market or until the U.S. supply of hides increases sufficiently to allow all hide consuming nations to be satisfied. This measure is moderate and fair.

During the multilateral trade negotiations the problem of other countries embargoing their hides was raised by the U.S. negotiators—the concern of the United States fell on deaf ears. Since the fall of 1978 the special representative for trade negotiations has held talks with the governments of Argentina and Brazil in an attempt to persuade these countries to allow their hides on the world market. Again, little has been gained.

Earlier this session this body overwhelmingly passed the implementing legislation for the multilateral trade negotiations. It is viewed that one of the primary benefits to accrue as a result of this legislation will be the fostering of fair and reciprocal trade practices and thus the development of a truly competitive trade environment. The question before us is whether we are going to allow unfair, discriminatory, and noncompetitive world trade practices with respect to hides or whether we are going to follow through with the spirit of the MTN's and through the enactment of this amendment provide ourselves with fair competition in the hide market. To choose the former is to allow for the continued indirect subsidization of foreign industries and jobs at the direct expense of 245,000 Americans employed in the leather manufacturing industry and the 180,000 Americans employed in the retailing of domestic leather products. In the spirit of fair trade I urge my colleagues to choose the latter and adopt this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. STENHOLM).

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Chairman, amplifying a little further on the remarks of the distinguished chairman of the Committee on Agriculture, let me say first that I associate myself with his remarks, and I want to make one additional point.

First, there is no shortage of hides. The domestic industry needs 18 million every year, but last year we shipped 39½ million and next year we will be shipping 37 million. There is no shortage of hides.

To those who contend there is an insatiable appetite for hides in many places such as Japan, let me state that that just is not so. That statement just cannot be defended when we see the prices of hides decrease from my district, because at this very moment the decrease is about 31 percent.

Anyone can contend that we have unfair trade and that there is something being perpetrated upon our domestic industry. But I happen to represent both cattlemen and manufacturers, those in the manufacturing business, in the boot

and leather industry. The facts do not bear the contentions out.

Are we willing to reduce cattle income down to $17 a head in order to reduce the price of shoes by 60 cents? We know these savings will never be passed on to the consumer. That is the basic issue. That is the issue that we have to contend with.

We can all look at the facts, and we may see cattle prices go down, but other prices do not go down. Once the prices go up, they do not come down because those people do not play under the same rules on that side as we do on the cattle end. We look at the facts and see that this has been the case time and time again.

Mr. Chairman, it is interesting to note that we can ship a hide from Houston, Tex. to Japan cheaper than we can ship that hide from Houston to Maine.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. HIGHTOWER).

(Mr. HIGHTOWER asked and was given permission to revise and extend his remarks.)

Mr. HIGHTOWER. Mr. Chairman, what this country really needs is preferably an agricultural product that is in great demand worldwide, one that nobody in this country wants to have anything to do with. We need a product that we can raise and perhaps sell principally to the OPEC nations. That would really help our balance of payments.

But nobody in this country wants that. The problem is that if we grow it, if we raise it, or if we manufacture it here, it is going to have a domestic market, and those who are interested in protecting the domestic market are going to do it. The question is a matter of trade.

I wish to state my disagreement with my friend, the gentleman from Massachusetts (Mr. SHANNON), who says that the cattlemen are not concerned about this. They are very much concerned because they know to the penny how much that cow is going to bring on the hoof. That is going to be reflected in the price of the hide.

Mr. Chairman, I cannot resist saying that it is a question of asking whose ox is being gored.

The CHAIRMAN. The Chair recognizes the gentlewoman from Massachusetts (Mrs. HECKLER).

(Mrs. HECKLER asked ad was given permission to revise and extend her remarks.)

Mrs. HECKLER. Mr. Chairman, obviously this afternoon we have heard a great deal about the cattle interests and about the shoe industry. I would like to say that the issue is one that goes beyond both of those issues.

I present for exhibit before this House a holster made in my district which sold last year at $3.67; this year it sold for $5.40. This is an increase of 47 percent.

Shoelaces sold by the dozen at $6.81 last year and sold at $11.70 this year. That is a 71.8 percent increase. A night watchman's clock case, which I did not bring with me but which we have for exhibit, increased in price from $3.50 to $10.50—a 200-percent increase.

These increases are directly related to the proportionate level of the export of hides, which has risen precipitously in the last few years—despite the declining size of the beef cattle herd. In 1975, cattle production peaked at 42.6 million head; dropped to 41.9 million in 1977; last year was only 39.5 million head; and in 1979 is expected to reach an 11-year low of less than 35 million cattle.

The United States exports a steady 24.5 million hides annually, leaving a decreasing supply for American needs. Domestic requirements for the United States are 18 to 20 million hides per year. In 1979 that means we will be between 8 and 10 million hides short—somewhere in the range of 40 to 50 percent of our needs.

The corrollary to this shortage is an increase in price for the available hides. In December 1977, hides cost 38.2 cents per pound. In May 1979, the price was $1 per pound. Companies that make leather products have been forced to pay top dollar in order to fulfill their long-term contracts and the price increase, as usual, has been passed on to the consumer.

Experts tell us that we cannot expect any relief from natural growth in the beef cattle herds until 1983 at the earliest. That is too long to wait. Potential jobs will be lost because contracts cannot be filled, because foreign imports underprice American products, and because consumers simply cannot afford to pay higher and higher prices for belts, handbags, shoes, luggage, and other leather products—not all of which are luxuries by any means.

Mr. Chairman, it is totally unfair to place the burden of shortages and the accompanying high prices on the consumer and I urge my colleagues to vote for the Shannon amendment.

□ 1710

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. MAVROULES).

(Mr. MAVROULES asked and was given permission to revise and extend his remarks.)

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from New Jersey.

(Mr. RODINO asked and was given permission to revise and extend his remarks.)

Mr. RODINO. Mr. Chairman, I want to express my strong support for the amendment offered by my colleague from Massachusetts (Mr. SHANNON) to prevent the mass exportation of U.S. cattle hides. I am deeply concerned about the critical situation facing America's leather industry and its ultimate effects on American workers and consumers.

The dramatic increase in the exporting of American cattle hides has resulted in a severe shortage of hides for American leather industries. This situation is jeopardizing tens of thousands of jobs nationwide. In my home State of New Jersey over 8,000 workers—most of them from minority groups—are faced with losing their jobs in the leather industry because of the hide shortage.

Apart from my immediate and deep concern about the loss of businesses and employment in New Jersey and other States, I find it unconscionable that we continue a policy that contributes to our escalating inflation rate.

The price of cattle hides in this country has nearly tripled in the last year and a half, and the cost is ultimately paid by consumers.

Also, the trade deficit in our leather industry was over $2.5 billion in 1978, nearly 10 percent of the entire U.S. trade deficit. All hide-producing countries except the United States have imposed strict controls on exporting hides.

Mr. Chairman, the Congress has the responsibility to do the same in order to protect American industries, workers, and consumers. I urge my colleagues to support this amendment.

Mr. MINISH. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from New Jersey.

Mr. MINISH, I thank the gentleman for yielding.

Mr. Chairman, I would like to say to my good friend, the chairman of the Committee on Agriculture, that he referred to the districts that sell the hides and he referred to the districts that have the shoe manufacturers. But what he forgot to say was that all of the districts wear shoes.

Mr. MAVROULES. Mr. Chairman, the tanners and leather manufacturers in this country are facing a crisis of alarming proportions. But much more is at stake here than the industry and the million plus people it employs, either directly or indirectly.

And much more is at stake here than a parochial, regional bone to fight over.

Simply put, the fortunes of the leather industry impact on all of us, as consumers and as a nation as a whole.

As consumers, we may very quickly arrive at the day when we cannot afford finished leather goods: Shoes, coats, handbags.

And as a nation, we need only look at our trade deficit to see what happens when our raw hides return from overseas as finished leather products.

The leather industry has arrived at its moment of truth.

But it is also our moment of truth in Congress to act now to limit the wholesale exportation of our cattle hides.

I am speaking today in support of an amendment that would do just that: Guarantee the Nation's tanners and leather manufacturers an ample supply of raw material.

And, more important, a fair market for these hides and the chance to compete with foreign buyers on equal footing.

But if we do not act favorably on this amendment—I am afraid—we will be responsible for perpetrating a disastrous price explosion in the leather goods market.

An explosion reminiscent of the early days of the OPEC price escalation in 1973.

Mr. Chairman, let me take a moment to reflect upon what looms for the tan-

ning and leather industries—and our Nation—if we do not pass the Shannon amendment.

It is estimated that this year we will export 24 million hides out of a total domestic hides supply of 34 million. About 70 percent of our total domestic supply will leave our shores. This leaves about 10 million hides for domestic use, where 19 million are needed to keep the industry afloat, the plant gates open, and tanning and leather people employed.

If this point is not enough, consider the point that makes the leather situation a national issue.

I mentioned earlier the impact of imported leather products on our national trade deficit.

When our hides return as finished leather products, the Nation is $2.5 billion poorer, equal to 10 percent of our total trade deficit.

I am certain that I do not have to remind my colleagues of the effect our trade deficit has on inflation and of all the words each of us has directed at this severe national problem.

I am also certain that now many of you can see the hides export issue as having national importance.

For passage of this amendment is a blow against skyrocketing inflation.

This year it is estimated that the average price of a pair of men's shoes will increase $6 to $10 at the retail level.

And the average price of women's and children's shoes $4 to $8 at retail.

Failure to pass the amendment means that women's boots will increase somewhere between $12 to $18 a pair.

Failure to pass the Shannon amendment, Mr. Chairman, means that a man's short leather jacket, which was $30 higher last year than the year before, will be an additional $30 to $35 higher this year.

This litany of painful prices increases goes on and on.

If something is not done immediately to curb the mass exportation of raw hides, the resulting, higher leather costs could increase the amount spent by a husband, wife, and three children by $100 a year per person.

Bringing their total expenditures for footwear needs to $500 a year.

I ask any member of this body to tell me and the American public how any American can afford such costs.

Particularly when we consider that these will be placed on top of the highest energy costs in our Nation's history.

Mr. Chairman, we are the only country in the free world that allows such exploitation of a native raw material.

While we abide by the doctrine of a free market, other hides producing countries embargo their products and increase, at the same time, their finished leather exports to us.

This is the present situation, and little has been done to improve it, although we can count the Argentine accords as a success, it's a small one.

And a lot more needs to be done.

This amendment, which I am speaking in support of, can further improve the domestic tanning and leather industries' otherwise sagging future.

And produce not only a free world market for hides but, more important, a fair one.

This amendment does not embargo hide exports, as other countries do. It simply limits them to previously acceptable levels for sale on the world market.

And the amendment is not asking for a Government handout, for direct subsidies to this beleagured industry.

It simply allows us to prevent the current shortage from every recurring.

Shortages that forced the price for a pound of leather to go from 37 cents in 1977 to 58 cents in December of 1978 to 73 cents a pound on the current market.

If we in Congress are serious about protecting American jobs, keeping the price of leather goods acceptable, and about turning our trade deficit around, here is our opportunity.

If the 96th Congress is serious about its campaign pledges to do something about inflation, let us pass this amendment and strike at a chief culprit. Our trade deficit, 10 percent of which is attributable to finished leather imports.

Let us help this industry back on its feet, for sure, but let us also help ourselves and the American public as consumers, giving ourselves the opportunity to continue buying leather goods—American leather goods—at reasonable prices.

Mr. Chairman, let us do all these things with the passage of the Shannon amendment limiting hide exports.

Thank you.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. LAGOMARSINO).

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Mississippi.

(Mr. MONTGOMERY asked and was given permission to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Chairman, I rise in opposition to the Shannon amendment; it certainly is an amendment against one industry, the cattle industry.

The cattlemen of this country have not asked for Government help when cattle prices and hide prices were down.

What they are asking is to leave the cattle industry alone and not punish one industry by this impaired amendment.

Supply and demand has always worked in this country and it will work again if the Government will not interfere and pass amendments such as this one being debated.

I urge my colleagues to vote against this amendment.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to the Shannon amendment. Adoption of the amendment would run counter to the efforts made by the United States to achieve broad agreement in the multilateral trade negotiations.

Our former trade Ambassador Strauss opposes export controls on hides. Japan, as the No. 1 customer, has already agreed to limit imports, and, as Strauss argues, imposing controls now would only reinforce Japanese fears of the United States as an unreliable supplier.

The United States and Argentina have negotiated an agreement which will put 14 to 16 million additional raw cattle hides on the world market, and some of those, of course, will be available to U.S. tanners. It is obvious, as indicated in the past, that American hide production is far in excess of American demand for raw hides. Export controls are against our policy of free trade and they would hurt our balance of payments and raise the price to American consumers.

Following are two mailgrams from the trade associations in opposition to the Shannon amendment:

HOUSTON, TEX.,
July 16, 1979.

Hon. ROBERT J. LAGOMARSINO,
House Office Building,
Washington, D.C.:

We understand a new bill or an amendment to the Export Administration Act of 1979 will be introduced to remove cattle hides from the category of agricultural products and therefore remove them from the jurisdiction of the Secretary of Agriculture and forcing cattle hides under mandatory export controls. This is being done because the Secretary of Agriculture has so far refused to certify a shortage of cattle hides because there is none. In fact, this country produces almost double the amount consumed by our leather industry. If this amendment passes, it will cost the consumer drastically in higher meat prices and increase our balance of payment deficits which we definitely do not need.

We ask your support in defeating this amendment or any new bill introduced which would allow this to happen. The following are some of the prestigious groups which are against this amendment:

National Farm Association, National Cattlemen's Association, National Grange, American Meat Institute, National Independent Meat Packers Association, Western States Meat Packer Association, National Renders Association, National Hide Association.

We ask you to join in with these groups to defeat this attempt.

SOUTHWESTERN TRADING CO.

BOSTON, MASS., *September 17, 1979.*

Hon. ROBERT J. LAGOMARSINO,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN: Defeat the Shannon amendment or any other effort to impose export controls on cattle hides—standby or otherwise.

We wish to update you on developments since our Mailgram of July 27, 1979. Since then the following has happened:

1. The United States and Argentina have negotiated an agreement which will put 14 to 16 million additional raw cattle hides on the world market. U.S. tanners will be able to buy these hides. Passage of the Shannon amendment would jeopardize this agreement.

2. Japan has now permitted greater imports of U.S. processed and semi-processed leathers. Passage of the Shannon amendment would jeopardize this.

3. Hide prices have declined 40 to 50 percent in the last 5 months—without the Shannon amendment.

4. It is obvious, as indicated in the past, that American hide production is far in excess of American demand for raw hides. Export controls are against our policy of free

trade, and they would hurt our balance of payments, raise costs to American consumers and hurt American agriculture.

Vote "No" on export controls for hides.

Sincerely,

THE AMERICAN ASSOCIATION OF HIDES, SKINS, AND LEATHER MERCHANTS.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BINGHAM) to close debate.

Mr. BINGHAM. Mr. Chairman, I would just like to inform the Committee that this amendment was not offered in the Committee on Foreign Affairs and, therefore, the committee has taken no position on it.

I would further like to inform the Members, however, that the administration position is strongly in opposition to this amendment, and that includes the Department of Commerce, as well as the Department of Agriculture.

● Mr. HANLEY. Mr. Chairman, I rise in support of the amendment offered by my colleague Mr. SHANNON, designed to alleviate the desperate situation in the domestic leather industry by restricting cattle hide exports to reasonable historical levels. The current problem is clear, and failure to act will only produce results in the leather industry which are equally clear. Simply stated, we are exporting an excessive amount of cattle hides, and as a result prices of domestic hides have skyrocketed in recent months. The net result will be disastrous inflationary increases in the price of shoes and other leather goods, and the potential closing of plants with the resulting loss in jobs. With inflation already running at double-digit levels, and this Nation in the early stages of recession, we have no choice but to take actions necessary to increase domestic availability and reduce prices. We simply cannot continue to supply the world with hides and in the process suffer increased inflation and economic dislocation at home. I strongly support our efforts toward freer world trade, but free trade is a two-way street. Either we must receive the assistance of other potential exporters, or we must act to restrict our own exports. Efforts to convince others to increase their exports have failed to date. We are, therefore, left with only one logical course of action.

By reducing our current exports to more reasonable historic levels we can hopefully assure adequate supply at home, while attempting to convince other potential exporting nations to shoulder their share of the burden. I urge the adoption of the amendment.●

● Mr. CLAUSEN. Mr. Chairman, the Shannon amendment to restrict the export of U.S.-produced cattle hides to a fixed percentage of our production attempts to deal with a delicate problems facing our domestic leather industry in an inflexible way that could foster inflation by driving up the costs of food, could have a negative impact on our balance of payments and could invite trade retaliation from many of our foreign trading partners.

The potential impact of the Shannon amendment is not known at this time. This is strong disagreement on whether it would be beneficial in the long run to the U.S. leather industry and its adverse international consequences could be far reaching. This is not the time for the Congress to be legislating without a full understanding of what might result from our action.

I believe the gentleman from Massachusetts (Mr. SHANNON) has done a service by dramatizing the plight of America's leather industry and it seems to be the Congress must now carefully evaluate the various possibilities for strengthening and enhancing its competitive situation.

Today we are limited to either voting for or against export controls on hides. It is my intention ot vote against my amendment because I believe a more thorough consideration of the issue by the appropriate Congressional committees could achieve some effective solutions for the leather industry without adversely affecting beef production and costs. I am certain a positive, flexible program could be adopted and implemented.●

● Mr. WAMPLER. Mr. Chairman, I am opposed to the amendment offered by the gentlemen from Massachusetts, Mr. SHANNON. This amendment would limit yearly U.S. hide exports to a percentage of total U.S. supplies that does not exceed a percentage of hide exports in relation to U.S. hide production during the base period of 1973–77. There is an exception to that provision which I also find objectionable.

The Secretary of Agriculture in a letter dated July 31, 1979, expressed his strong objection to the amendment offered by the gentlemen from Massachusetts. A pertinent portion of that letter I insert in the RECORD at this point:

HIDES

This amendment could result in arbitrarily restricting hide exports to a percentage of domestic production which is at or below the percentage exported during the base period.

The level of exports permitted would be based on past market conditions rather than the current supply/demand situation.

The foreign country most affected by export limitations on hides is Japan our largest single market for agricultural exports. These restrictions would further damage our credibility as a reliable supplier.

Reduced hide prices could have a negative effect upon the cattle producers and meat packing industry. It could discourage the rebuilding of domestic cattle herds.

I have also been contacted by Secretary of Commerce Juanita Kreps, who indicated that she was strongly opposed to any further trade restrictions such as that embodied in the Shannon amendment.

I oppose this amendment for the reasons expressed in the Dear Colleague letter which I sent to all Members of the House on July 26, 1979. The substance of that letter is as follows:

The tanners and footwear manufacturers allege that there is a shortage of cattle hides in the U.S. and seek hide export restrictions claiming that is the only way to hold down the price of shoes and keep jobs. How can there be a hide shortage when the footwear people maintain they need 18 million hides annually, and slaughter approximates 34 million cattle (hides) this year in the U.S.?

The footwear and tanning industry charges are nothing new. In 1966 and 1972, both years following the liquidation side of the cattle cycle, similar restrictions were urged by tanners and footwear manufacturers. In both years their actions caused hide prices to drop; cattle prices also fell since the hide is the largest single byproduct, but the price of shoes increased anyway.

In 1972, the Export Administration Act was modified so as to require concurrence of the Department of Agriculture should the Commerce Department recommend restricted exports of U.S. agricultural products including hides. This was a result of the problems caused by the restricted soybean exports to Japan and a licensing system of hide exports, also principally involving Japan.

There is a possibility that an effort will be made to amend H.R. 3043 that would take the form of removing the required concurrence of the Department of Agriculture should the Commerce Department decide to move to restrict hide exports or, for that matter, any agricultural commodity.

We feel that the integrity of the U.S. is at stake in being a reliable supplier in agricultural commodities in world trade. The question of agriculture's vital role in holding down our trade deficit is also "on the line."

The U.S. must retain those export markets that have been developed over the years. Therefore, we strongly urge you to join with us in defeating any attempts to amend H.R. 4034 in a way that would weaken the role of the U.S. Department of Agriculture in providing concurrence on the question of any agricultural commodity exports, including hides.●

● Mr. GUARINI. Mr. Chairman, I rise in support of Mr. SHANNON's amendment to H.R. 4034.

Although I personally look with disfavor upon controls in a free economy, I feel that the facts require action in the nature of Mr. SHANNON's amendment. His amendment is a reasonable approach to a problem which if allowed to persist threatens the viability of the American leather industry.

A number of firms located in my district are faced with a crisis due to the unprecedented increase in exports of cattle hides and the resulting escalation of prices. From December of 1977 to last May, the price of hides rose 154 percent. During the first 5 months of 1979, approximately 75 percent of our hides were exported with the result that our domestic leather industries were able to obtain only 50 percent of their needs from domestic sources.

Most other cattle-producing countries limit the exports of cattle hides. Brazil has refused to sell its hides while at the same time, has increased its sale of finished shoes to the United States by 50 percent. Although I have been heartened to learn of the agreement recently concluded by the Special Trade Representative with Argentina, which would gradually loosen its export controls, it is the only bright spot in what has been a difficult and frustrating climate for our domestic leather industry.

American manufacturers and workers deserve some assurance that there will be a continuity of supply. If it is not forthcoming, American manufacturers will be driven out of business because of their inability to compete both at home—against cheaper imports—and abroad in tightly regulated markets.

In particular, I would call to my col-

leagues' attention the fact that in 1978, the deficit in the leather products industry was nearly $2.5 billion, equal to 8 percent of the entire trade deficit.

Mr. Chairman, in closing, I would like to offer my strong endorsement for Mr. SHANNON's amendment. It will go a long way toward improving a very serious problem affecting 400,000 American workers, 8,000 of whom reside in my home State.

I urge my colleagues to adopt this amendment.●

● Mr. DIXON. Mr. Chairman, we are today faced with a problem derived from unfair and excessive purchases of American cattle hides by foreign nations. Statistics show that while U.S. cattle slaughter has been declining, foreign purchases of hides have been reaching an all-time high and domestic tanners can expect to get just one hide out of every four in the United States this year.

At a time when other hide-producing nations are holding back their supplies, while frantically scooping up all the U.S. produced hides, the United States is left as virtually the only Nation which gives free-buying access to its unfinished hides. Other major hide producing countries such as Argentina, Brazil, Mexico, and India and Pakistan, all close their borders in order to protect their own leather good industries, their workers and consumers. We are further informed that the United States was the source of 75 percent of the cattle hides exported by all countries in 1978 while exporting just $234 million in finished leather and leather goods for the same year.

I believe that we must adopt this amendment to insure that the more than 500,000 men and women who work in all facets of the leather goods industry keep their jobs and that the American consumer does not have to pay an arm and a leg for leather goods. I urge my fellow colleagues to vote for this amendment.●

● Mr. EDWARDS of California. Mr. Chairman, with regard to the Shannon amendment to H.R. 4034 limiting U.S. exports of cattle hides, I voted "present" because a company in which I own common stock has a small herd of cattle.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL) to the amendment offered by the gentleman from Massachusetts (Mr. SHANNON).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. SHANNON), as amended.

The question was taken; and on a division (demanded by Mr. FOLEY) there were—ayes 29, noes 45.

RECORDED VOTE

Mr. ERTEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 186, noes 218, answered "present" 2, not voting 28, as follows:

[Roll No. 479]

AYES—186

Addabbo
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Ashbrook
Aspin
Atkinson
Bailey
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Biaggi
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Brodhead
Broomfield
Broyhill
Buchanan
Burton, John
Butler
Byron
Chisholm
Clay
Cleveland
Clinger
Collins, Ill.
Conte
Conyers
Cotter
Coughlin
D'Amours
Daniel, Dan
Davis, Mich.
Dellums
Derwinski
Devine
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Drinan
Duncan, Tenn.
Early
Emery
Ertel
Evans, Del.
Evans, Ind.
Fary
Fenwick
Fish
Florio
Ford, Tenn.
Fowler
Garcia
Gaydos
Gephardt
Gilman
Goodling
Gray
Grisham
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Hawkins
Heckler
Holt
Holtzman
Hopkins
Horton
Hughes
Hyde
Jacobs
Jenkins
Jones, Tenn.
Kastenmeier
Kildee
Kostmayer
Latta
Lederer
Lee
Lehman
Leland
Lent
Luken
Lundine
McDade
McEwen
McHugh
McKinney
Maguire
Markey
Marks
Mavroules
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Nolan
Nowak
Oakar
Oberstar
Obey
Patten
Patterson
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Rodino
Roe
Rostenkowski
Roth
Royer
Russo
Satterfield
Sawyer
Scheuer
Schulze
Seiberling
Sensenbrenner
Shannon
Shuster
Slack
Snowe
Solomon
Spellman
St Germain
Stack
Staggers
Stewart
Stokes
Stratton
Studds
Swift
Vander Jagt
Vento
Walgren
Walker
Waxman
Weiss
Whitten
Williams, Ohio
Wirth
Wolff
Wylie
Yatron
Young, Mo.
Zablocki
Zeferetti

NOES—218

Abdnor
Akaka
Alexander
Andrews, N. Dak.
Archer
Ashley
AuCoin
Badham
Bafalis
Baldus
Barnard
Barnes
Bedell
Bellenson
Bennett
Bereuter
Bethune
Bevill
Bingham
Bolling
Bowen
Brademas
Breaux
Brinkley
Brooks
Brown, Calif.
Burgener
Burlison
Burton, Phillip
Campbell
Carney
Carr
Cavanaugh
Chappell
Cheney
Clausen
Coelho
Coleman
Collins, Tex.
Conable
Corcoran
Crane, Daniel
Crane, Philip
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, S.C.
de la Garza
Deckard
Derrick
Dickinson
Dicks
Dornan
Duncan, Oreg.
Eckhardt
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Ga.
Fascell
Fazio
Findley
Fisher
Fithian
Flippo
Foley
Forsythe
Fountain
Frenzel
Frost
Fuqua
Gibbons
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Green
Guyer
Hammer-schmidt
Hance
Hansen
Harkin
Harris
Harsha
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hubbard
Huckaby
Hutto
Ichord
Ireland
Jeffords
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leath, Tex.
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Lungren
McClory
McCloskey
McCormack
McDonald
McKay
Madigan
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mazzoli
Mica
Michel
Mikva
Montgomery
Moore
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
O'Brien
Ottinger
Panetta
Pashayan
Paul
Pease
Pickle
Pursell
Quayle
Regula
Rhodes
Roberts
Robinson
Rudd
Runnels
Sabo
Santini
Schroeder
Sebelius
Sharp
Shelby
Shumway
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Stangeland
Stanton
Stark
Steed
Stenholm
Stockman
Stump
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Volkmer
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wolpe
Wyatt
Wydler
Yates
Young, Alaska
Young, Fla.

ANSWERED "PRESENT"—2

Brown, Ohio
Edwards, Calif.

NOT VOTING—28

Anderson, Ill.
Anthony
Boggs
Carter
Corman
Courter
Downey
Edgar
Ferraro
Flood
Ford, Mich.
Giaimo
Hagedorn
Hollenbeck
Howard
Jenrette
Leach, La.
Lott
Murphy, Ill.
Pepper
Rose
Rosenthal
Rousselot
Roybal
Treen
Wilson, C. H.
Winn
Wright

□ 1730

The Clerk announced the following pairs:

On this vote:

Mr. Murphy of Illinois for, with Mr. Anthony against.

Mr. Flood for, with Mr. Jenrette against.

Mr. Pepper for, with Mr. Leach of Louisiana against.

Mr. Hollenbeck for, with Mr. Winn against.

Mr. CAMPBELL changed his vote from "aye" to "no."

Mr. WILLIAMS of Ohio changed his vote from "no" to "aye."

So the amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

Mr. GILMAN. Mr. Chairman, I move to strike the last word.

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Chairman, the passage of export legislation designed to streamline export procedure with the proper safeguards for our national security will contribute greatly to easing our economic ills. At the same time, bumper crops across this country prom-

ise improved opportunities for foreign grain sales which make up such an important part of export earnings.

There is, however, one major concern that I must raise at this point. While American farms have hopefully been blessed with good harvests, world grain production is dramatically down, with bad crops in the Soviet Union and Brazil. Past supply crises and embargoes during the 1973–76 period have left clear imprints on the minds of the consumer through higher prices and farmers who shared little of the benefits from those vast grain exports.

At this point I would like to address a question to the distinguished chairman of the Subcommittee on International Economic Policy and Trade, the gentleman from New York, Mr. BINGHAM, with regard to this vital aspect of our export market.

Would the gentleman care to comment on the importance of grain exports as a part of our export earnings and share with us his thoughts on what is being done by our Government now and for the future to insure that adequate supplies of food grains, feed, and seed crops are available domestically without accelerating food price inflation as we seek to capitalize on the demand for food exports?

□ 1740

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I will be happy to yield to my colleague, the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I would say to the gentleman that, of course, grain exports contribute greatly to our export earnings. I believe wheat is our single most important export commodity. Without the surplus of wheat beyond our domestic needs that our farmers have produced in recent years, our balance of trade and balance of payments deficits would certainly be much worse.

As to what we are doing to assure an adequate U.S. supply at all times and at moderate prices, I would say to the gentleman that the U.S. Government officially and formally monitors wheat supplies and wheat exports. That is done under the authority of this act and section 812 of the Agricultural Act of 1970. It is done on a weekly basis, and the reports are made public. Those reports apply to wheat flour, which is so important to our bakery industry, as well as to grain.

In addition, the Secretary of Agriculture is authorized to require exports to submit special reports on particularly large transactions. In recent years, for example, any transaction involving over 100,000 metric tons to a single destination in a day must be reported to the Secretary of Agriculture that same day, and over 200,000 metric tons in a single week must be reported that week.

In addition, as the gentleman knows, we have had for several years a formal and detailed agreement with our largest customer, the Soviet Union, which limits the amount they may purchase in any given year. If they wish to purchase in excess of that amount, they must have U.S. Government concurrence.

So, in short, I would say to the gentleman that we have a very thorough monitoring system for wheat and wheat flour that enables us to protect our domestic supply and assure that it is not suddenly purchased away from us by foreign buyers. Prices of wheat and wheat flour, of course, are influenced by many factors in addition to supply—the transportation, storage, processing, and so forth. And many of those costs are rising rapidly, particularly as the cost of energy rises. That is undoubtedly responsible for some of the price increases we have seen recently in the cost of wheat. But insofar as adequate supply is concerned, I do believe we have in place both the productive capacity and the monitoring mechanism to protect our supplies.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for his response and continued concern in this area. I would also like to take this opportunity to commend both Mr. BINGHAM and Mr. LAGOMARSINO, chairman and ranking minority member of the subcommittees respectively for their work in bringing this important legislation to the floor for our consideration.

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEAVER: Page 45, insert the following section after line 21, and redesignate succeeding sections accordingly:

EXPORT OF WHEAT, CORN, AND SOYBEANS

SEC. 110. (1) In order to carry out the policy set forth in paragraph 2(c) of this act, and paragraph 4 of Section 3 of the Export Administration Act of 1969; and notwithstanding the provisions of section (f) of said act, as such section is redesignated by section 104(a) of this act: For a period of one year after the enactment of this act, the Secretary shall require a validated license for the export of wheat, corn, and soybeans. In considering any application for such validated export license issuing under the terms of this paragraph, the Secretary shall establish a minimum export price for said commodities of 80 percent of the parity price as established and periodically revised for same by the Secretary of Agriculture under provisions of 7 USC Sec. 1301. No export license shall issue for the commodities listed in this paragraph at a price for export which is less than 80 percent of the established parity price for said commodity.

(2) The provisions of paragraph (1) may be waived in the case of exports to developing countries.

(3) The provisions of paragraph (1) shall not apply to applications for export to any country if and when the President determines that it is in the national interest to remove the requirement of a validated license for export of said commodities to said country.

Mr. WEAVER (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. WEAVER. Mr. Chairman, in 1972 the Soviet Union came in and scooped up our entire wheat reserve at extraordinarily low prices, $1.50 a bushel. They got it cheap, and left the American people to pay the price of rising prices of grain. In other words, our people paid twice for our own grain.

Today, we must reverse that. We must make the Soviet Union pay the high price, and our own people pay the lower price. My amendment simply says that we will not sell our grain overseas, our corn, wheat, and soybeans, except for 80 percent of parity. Now, 80 percent of parity is not enough, but because this is in the law for 1 year I had to set it low. But, our huge bumper crop produced by our magnificent farmers, our magnificent agriculture—this huge bumper crop of 7.3 billion bushels of corn, 2.2 billion bushels of soy beans, 2.2 billion bushels of wheat—this magnificent crop will depress prices. The Soviet Union has had an enormous shortfall this year and needs to buy 32 million tons. They will come in once again and scoop up our grain at cheap prices.

What is the Soviet Union paying for our grain? Let me tell the Members. The Soviet Union sells gold to buy our grain. Ten years ago, 1 ounce of gold that the Soviet Union sold bought 20 bushels of grain. Today, 1 ounce of gold buys 95 bushels of grain. How long can we stay in business when our customers, the Soviet Union, Japan, the OPEC nations, and others are selling their products higher, gold and other things high, and we sell our grain lower?

I want to export as much grain as we possibly can, but I simply think that the American farmer and the American taxpayer must get a decent price for it. It is essential. Our grain exports held our balance of payments, of course, but consider that a number of years ago we paid for our oil with our grain exports. Now, the oil has gone up, up, up; our grain prices have stayed low. No longer does our grain pay for our oil we purchase.

That is why we have a balance-of-payments deficit, because we do not get the price for our grain that they get for oil, that they get for gold, that they get for the products that they export.

So, my amendment simply says, "Let us take this bumper crop and put a minimum floor price on it." Eighty percent of parity, frankly, is not very much. It is not enough. It is higher than it is today at $4.72 for wheat, $3.33 for corn, $8.08 for soybeans. Now, the prices are almost that high now, so it is not going to do any damage, be any problem. It is just simply going to say that when our farmers start storing their grain, dumping their wheat on the sidings, with no place to ship it or store it, the buyers of the Soviet Union cannot come in and scoop it up at distress, depressed prices.

Once again, the Soviet Union gets cheap grain and our people later on pay dearly for their food. How much longer

can we tolerate this? How much longer can we go on buying high and selling low?

So, I offer a simple amendment as a National Grain Board bill. I call it my barrel for bushel bill. That is really the way to go, but right now we face an emergency. We must keep this grain, this huge bumper crop, from selling at depressed prices to the Soviet Union.

I ask my colleagues who voted for the budget for defense, we need a strong defense, but I ask them why must we vote billions of dollars for weapons to defend ourselves from the Soviet Union when we subsidize them with cheap grain; when we give their economy cheap food and help their economy to put more of their resources into military weapons? Is that sensible? No.

So, I ask my colleagues here, let us put a simple floor on it, export all we can, but put a simple floor of 80 percent of parity on our prices and tell the others, tell Japan, tell the Soviet Union, tell the OPEC nations, that they must pay at least that.

[Mr. BINGHAM addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. FOLEY asked and was given permission to revise and extend his remarks.)

Mr. FOLEY. Mr. Chairman, I rise in strenuous opposition to the amendment offered by my good friend, the gentleman from Oregon (Mr. WEAVER). Before anyone in the Chamber should have the slightest doubt about where the exporting concerns of American agriculture lie, his amendment is strongly opposed by the American Farm Bureau Federation, by the National Council of Farmer Cooperatives, the National Wheat Growers Association, the National American Soybean Association, the National Corn Growers Association, and by almost every other group that represents those in whose behalf the gentleman from Oregon (Mr. WEAVER) claims to be acting.

With this amendment, we would be establishing for the first time political control over the exports of our agricultural products—agricultural products that are expected this year to earn the United States $32 billion this year. Our wheat exports alone last year earned us approximately $4.5 billion. That is four thousand five hundred million dollars of earnings for our country to help pay the cost of our energy imports.

If the Soviet Union has to sell gold—and by the way, not at the rigged price but at an international price we can sell it for, too—if they have to sell gold to buy American wheat, that does not bother me. If the Soviet Union has to divert funds from heavy industry and perhaps from strategic weapons to buy wheat to feed Russian citizens, that does not bother me. I think that is good for us and the economy.

As Hubert Humphrey said, he was in favor of selling to the Russians anything they could not shoot back, and they are not going to shoot back the wheat and the feed grains that they consume by their populations is improving their diets.

The Weaver amendment does something much more serious than play around with the possibility of somehow euchring a slightly higher price out of countries like the Soviet Union It says that the export license cannot be issued unless the Secretary approves which means it cannot be less than 80 percent of parity. It really does not promise that price, by the way, to farmers. As I read it, it is the grain exporter, Cargill or Continental and so forth that would have to get 80 percent of parity, not the farmer. It does not appear how the farmer would benefit from this amendment, or how farmers who do not export crops but produce for the domestic market are going to get equal treatment as the farmers produce for the export market. Additionally it is not clear how developing countries are suddenly going to be exempt from the higher prices that we extract in the export market.

The amendment is bad both in its practical effects and in its precedent. It is a dangerous precedent for all American exporters to submit to political control over its exports in nonstrategic weapons and materials. We all are in favor of some political control over strategic weapons and materials that may add to the material inventory of potential adversaries, but political controls and fees on exports of nonstrategic items are not only unnecessary; they are totally undesirable in any sound economic policy for this country.

I want to see higher prices for wheat. I am delighted that wheat prices have risen in the market and that they are now at export levels equal to 74 percent of the 80 percent the gentleman desires. I think that is healthy because it is happening in the free market, not because of some kind of political control. The farmers realize that the same political control that the gentleman from Oregon (Mr. WEAVER) promises to raise prices which can be used to suppress prices, because there will be times when our exports, I hope, will bring more than 80 percent of parity. I was happy when they brought 100 percent of parity in 1974 and 1975, and I hope they do so again.

This is a dangerous amendment, dangerous in its principle dangerous in its precedent, and far-reaching in its consequences. The gentleman has attempted to offer a bill to create a state trading corporation in grain. This is what really is the basis of this offer. He has tried to offer that amendment in the Committee on Agriculture for several years, and the committee in a bipartisan way has rejected that proposal. So now he is attempting to make the Secretary of Commerce a one-person state grain-trading agency, rather than the American Wheat Board which he wants to establish. For the American Grain Board he substituted the Secretary of Commerce.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has expired.

(By unanimous consent Mr. FOLEY was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding.

I rise in enthusiastic support for the gentleman's position as he has expressed it and in strong opposition to the amendment. I think it is well for us to remember that if the amendment were in effect in the law, American wheat farmers would be sitting around while Russians, for instance, were buying their grain from other wheat-exporting countries such as Australia and Canada perhaps at 79 percent, and we would be selling absolutely nothing at all.

Mr. FOLEY. The gentleman is absolutely right. This amendment, if adopted, would guarantee that we would be only residual suppliers of those agricultural products that it covered.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. I thank the gentleman for yielding.

I support the gentleman from Washington (Mr. FOLEY) in his position in opposition to this amendment.

About 2 weeks ago I met with a group of farmers, some of whom subscribe to the position that is articulated by the gentleman from Oregon (Mr. WEAVER) who supports this amendment, and I asked them why it was that they supported this position, that everyone knew that this would not work, that in practice it would depress prices on the world market, and that it would be against the best interests of the farmers. So I asked them, given the fact that they understood the way that grain trading worked, why it was that they supported this position. The response was interesting. It was that to promote this position would promote higher prices for the farmer. Now I ask the gentleman, is this a tenable position? Does supporting this amendment which is offered by the gentleman from Oregon (Mr. WEAVER) in any way increase the prices of grain on the world market for farmers?

Mr. FOLEY. In my opinion, the amendment only requires 80 percent of parity as a minimum to the applicant for the export license, which is a grain trading company, and all that it would guarantee if they had a market at that rate, assuming that the price were at that or higher, would be that the grain trading company would get the guarantee, rather than the farmer.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. SEBELIUS. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Kansas.

Mr. SEBELIUS. I thank the gentleman for yielding.

(Mr. SEBELIUS asked and was given permission to revise and extend his remarks.)

Mr. SEBELIUS. Mr. Chairman, few

actions would give me greater pleasure than to adopt a program that would guarantee my farmers a better return on their investments over the long term. That, I am certain, is what the gentleman from Oregon (Mr. WEAVER) intends and I am sure he has the best interests of the Nation's farmers at heart.

Unfortunately, it will not work. If anything, it will foul up our exports now and result in fewer grain and soybean exports over the long term.

I have served on the House Agriculture Committee more than 10 years. During that time I have carefully studied farm policy to try to find better avenues toward farm prosperity. Lord knows it would be to my advantage to come up with a cure for the economic ills that plague the farm sector periodically.

This idea is not new. It has been tested and rejected many times in the past, as I'm sure it will be in the future. Why has it been rejected?

There is no doubt that the United States dominates world trade in grains and oilseeds today. There is on some occasions, some truth to the notion that the United States sets the prices for grain and oilseeds in world trade. There is no doubt that we are an important factor.

Unfortunately, there is a substantial difference between affecting the market and controlling it. Certainly, we can affect it. In the short run, under the right conditions, we can control it. Over the long run, I believe that efforts to control that market will lead to erosion of our position in it.

There are two ways we can affect the market. We can affect it positively by encouraging competition and innovation. And, we can affect it negatively by reducing our competitive edge and giving large parts of our markets to our competitors. I think it is very likely that this bill would do just that.

The distinguished gentleman from Oregon is fond of quoting Dan Morgan's new book, "Merchants of Grain," to support his contention of the need for more Government control over our grain markets. The following quotation is enlightening:

> Throughout the Depression years Europe continued to be the main market for the world's grain. But the drive for self-sufficiency did not let up, and protectionist sentiment was stronger than ever. European governments, already embittered over America's efforts to collect its war debts, were infuriated when Congress passed the Smoot-Hawley Tariff Act in July 1930, setting duties on foreign imports at all-time highs. They retaliated with stiffer duties on American farm imports. Meanwhile, Nazi propagandists, undoubtedly concerned about Germany's reliance on imported foreign wheat, began extolling rye bread's alleged ability to give Germans "the strength and endurance of the Nibelungen," and maligning wheat bread for "weakening the fighting will" of the Kaiser's losing armies in World War I.
>
> Some campaigns for self-sufficiency were surprisingly effecitve. In 1932, experts at Stanford's Food Research Institute thought there was no likelihood that Japan would reduce its importation of wheat for making noodles, a popular food in Japan. Three years later, to the astonishment of the experts, Japan had increased its home wheat production by 60 percent and achieved self-sufficiency. (These phenomenally successful food production campaigns tend to be forgotten amid today's talk that the world is running out of food.)

This alarms me when I think of all the people who think the United States has a monopoly on food production and technology. In my trip to China last year, I got a firsthand look at the kind of food production developing countries are capable of given the proper incentives. I would, as a result, urge my colleagues to be very careful about their assumptions of world food production capabilities.

Mr. Chairman, we generally grow more wheat each year in my congressional district than is grown in any State. We are extremely interested in improving farm income and I have worked diligently for years to improve our domestic farm programs to take the bust out of the farm economic cycle. If I believed this amendment was in the long-term interests of the farmers in my district, I would have enthusiastically embraced the concept years ago. Unfortunately, I must oppose this amendment and I urge my colleagues to do likewise.

Mr. LAGOMARSINO. Mr. Chairman, this amendment would severely inhibit our continuing efforts to induce other countries to remove their tariff and nontariff barriers to free trade. We have made a lot of progress on that issue, and I think this would be a step backward.

It would encourage retaliation by other countries who might restrict their export to us of basic materials on which we are so heavily dependent. Before such a program could become effective, there would have to be cooperation among the major wheat and grain producers around the world. I have offered a resolution which would call for an international conference of wheat producers to determine the possibility of such coordinated action, but it has a long way to go and it is not there yet. Such controls—I think this is important—as are proposed by the Weaver amendment would apply to all countries and not just to the Soviet Union and not just to OPEC. It would be very disruptive of export trade. It would reduce U.S. exports at a time when there is a balance of trade deficit. As the gentleman from Washington (Mr. FOLEY) has pointed out, it would impose for the first time political controls on the export of grain.

□ 1800

The whole purpose of this bill is to get rid of nonstrategic controls. This amendment would put us in exactly the opposite direction.

I urge its defeat and yield back the balance of my time.

Mr. WOLPE. Mr. Chairman, I move to strike the requisite number of words, I rise in opposition to the amendment and yield to the gentleman from Oregon (Mr. WEAVER) to allow him to respond to the previous comments.

Mr. WEAVER. I thank the gentleman from Michigan for his courtesy.

My goodness.

My goodness. What things we have heard. "It won't work."

You know, the Arabs said that 10 years ago. Somebody had the idea, you know, "Hey, let us all get together and put a price on oil."

Oil was $1.50 a barrel then. They said, "It won't work. It won't work."

We know what happened. OPEC did get together. OPEC does price oil. Oil is now $23 a barrel.

OPEC has a surplus of oil. One hundred fifty billion barrels in the ground in Saudi Arabia alone. A big surplus. They do not sell it unless they get their price. Nosiree. They say, "If you want to pay $20 or $23 a barrel you can have it but not less."

"It won't work."

You know something? We are, the United States, the OPEC of grain. The Soviet Union wants to buy 32 million tons of grain today. They have to come to us.

We export 77 percent of the corn that moves in world markets. We export 83 percent of the soybeans that move in world markets. We export 50 percent of the wheat that moves in world markets. In grain, we are Saudi Arabia, Kuwait, Abu Dhabi, Iran, Algeria and Libya combined. "It won't work."

When, when, O Lord, are we going to wake up and stop being rooked?

Did you know that Japan buys our wheat for $4 and sells it to their bakers for $9 and pockets the difference? Yes. Yes, they do. They buy our wheat from our farmers for $4 and sell it to their bakers for $9 and pocket the difference. Is that not smart? And they hold 26 billion of our dollars; 26 billion of our dollars right now Japan holds because they have sold us so many Toyotas and Sonys and record players.

"It won't work." My goodness.

We cannot sell it? There would be riots in the Soviet Union and every other nation if they could not have our corn and feed grains and meat their people have gotten used to, if we did not sell them this grain.

Another thing: What would happen to world prices if we kept our grain up and the world price would go down. We make the world price. American grain establishes the world price.

Today, if it is 2 percent in surplus, 2 percent on the free market, you can have a 50-percent drop in price. You know, all these other products they are talking about, automobiles and computers, are made by a couple of corporations and when their demand falls they keep the price right up there. But not the farmer, not the American grain that we rely on to build our balance of payments. No. It is 2 million producers and when they are 2 percent in surplus the price is cut in half.

Mr. Chairman, it is time we woke up. It is time these farmer organizations who are very close to the six big grain companies that want to continue to deal in secret, continue to make their deals in secret, and rook the American consumer and rook the American farmer, it is time we did something about this.

O Lord, let us wake up, O Lord, let us see what is happening to us before it is too late.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

I yield to the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I do not want to prolong this debate but I must reply to some of the statements made by the gentleman from Oregon (Mr. WEAVER) which imply that virtually every major American farm organization that represents farmers who sell the products the gentleman is talking about are not representing the interests of their members. Just think about that for a minute. If we could easily double, quadruple, quintruple the price of grain and isolate it from raising the price domestically, to extracting a higher export price without damaging our markets, does the gentleman think these farmers would not have an interest in doing it?

This sophisticated nonsense—and that is what I believe it is, although the gentleman does not intend it to be—this sophisticated nonsense that we can do the same thing with wheat, feed grains or soybeans that has been done with oil has led to the so-called bushel-for-barrel theory.

Mr. Chairman, the gentleman says he is not interested in just OPEC, he is talking about Japan and he is talking about the Soviet Union. However, many people in this country have the mistaken idea that somehow this great exporting capacity of food and grain, which we have, can lead us to command the world price.

Mr. Chairman, Australia, Canada, France, and Argentina are some of our competitors in this area and they will have nothing to do, and have said so, with the cartelization of wheat exports. Accordingly the gentleman's amendment is a prescription to give away major portions of our primary markets and to accept the role of a residual supplier and an unreliable one at that. When we imposed some controls on soybean exports in 1973 for just about a weeks time in order to protect our domestic livestock market, the Japanese were deeply shaken and began to question our reliability as a supplier of this and other food and feed supplies. They began to encourage the soybean production in Brazil that has made that country our major soybean competitor. This can happen to other crops.

Wheat can be grown in 80 countries. It is not quite like oil.

Mr. Chairman, it is not true that we could exchange a bushel for a barrel, even with OPEC. If that were possible—and let me just concede the purpose of that argument we could raise the price of wheat 400 percent or 500 percent and engage in a bushel-for-a-barrel exchange. With OPEC, that would give them all the feed grains and wheat they need in less than 30 days. In less than 30 days of exchange with us, they would have a full year's supply and we would have 11 months to buy from them without the trading capacity of our food.

Beyond that, Mr. Chairman, we risk an OPEC that might tell us, "All right, we will give you a barrel for a bushel, but we will sell you 20 percent less oil and we will buy 20 percent less wheat and feed grains from you." How would we like that? Not very well.

If anybody suggested by using this kind of power we can bring countries like Kuwait and Saudi Arabia to some kind of terms, they do not understand the foreign exchange levels of those countries or their wheat and feed grain requirements.

Mr. Chairman, I have said, and I will repeat here, that Saudi Arabia can afford to import its wheat and wheat flour in the form of French pastries baked in Paris and sent by Air France and distributed free in the country and have a lot of money left over.

The gentleman from Oregon knows this. The gentleman is an intelligent, able, and informed Member. But many Americans—fortunately not too many American farmers—have become beguiled by the bushel-for-barrel slogan and believe that this kind of manipulation can somehow produce miracles overnight and make an OPEC out of the American agricultural community. These false expectations weaken the good efforts of our export organizations and the good efforts of our farm organizations to improve the very important trade in wheat and other grains that is to the benefit of our farmers, our consumers, our Treasury, and the millions and millions of people around the world to buy from us to our and their advantage.

I hope the amendment will be defeated.

□ 1810

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I want to commend the gentleman on his statement.

About 2 weeks ago I had the privilege of meeting the new Saudi Arabia Ambassador to the United States and I brought this subject up in our discussion.

He said, "It is very simple. We will merely finance the growing of grain in Sudan, in Turkey, in Afghanistan, and in Pakistan, and it would have no effect on us whatsoever."

Mr. SMITH of Iowa. Mr. Chairman, I would like to reclaim my time just to say that I agree with the gentleman from Washington. I would like to think the gentleman's amendment would do what the gentleman proposes to do, but I do not believe it does.

I want to call attention to the fact that this bill includes something that encourages and makes possible straightout barter. That is a good provision. We need that kind of a provision. I think with the right encouragement we can develop barter agreements that will be effective rather than rely on something like this amendment that just will not work.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. SMITH) has again expired.

(At the request of Mr. WEAVER, and by unanimous consent, Mr. SMITH of Iowa was allowed to proceed for 2 additional minutes.)

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I thank the gentleman for yielding. I just want to say briefly that the statement made by the chairman of the Committee on Agriculture is accurate insofar as I know and have studied to the last detail of what the gentleman said. I endorse what the gentleman said and join the gentleman in opposing the amendment.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. WEAVER. Mr. Chairman, I would like to say to the person who says they will simply finance the growing of grain elsewhere, that they are trying to do that in Sudan and they are running into enormous problems. Egypt is doing a study on how to grow more grain and came up with $22,000 an acre to put it into growing condition, an impossible situation.

As to the embargo, I do not want an embargo. That is the last thing in the world I want. I want to sell all the grain we can but get a fair price for it.

Let us talk about Kuwait buying French pastries. Fine, let us make them pay that price.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ERTEL

Mr. ERTEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERTEL: Page 45, insert the following section after line 21 and redesignate subsequent sections accordingly:

EXPORTS OF HIDES AND SKINS

SEC. 110. Paragraph (1) of subsection (f) of section 7 of the Export Administration Act of 1969, as such section is redesignated by section 104(a) of this Act, is amended by adding at the end thereof the following: "The Secretary of Agriculture shall, by exercising the authorities which the Secretary of Agriculture has under other applicable provisions of law, collect data with respect to export sales of animal hides and skins.".

Mr. ERTEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ERTEL. Mr. Chairman, the amendment I am now offering will allow the Members of this body to demonstrate that they are sensitive to the problems in this industry and that they do recognize the problems that do exist.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the distinguished gentleman from New York.

Mr. BINGHAM. Mr. Chairman, we have had occasion to look at the gentleman's amendment. I do not think it is necessary, but we have no objection to it. If the gentleman would like to have it included in the bill, we certainly have no objection.

Mr. ERTEL. I thank the gentleman.

I yield to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding. I have examined the amendment. I have no problem with it. I do think in all fairness to the gentleman that it will be discussed in conference, but I have no objection to it at this time.

Mr. ERTEL. Mr. Chairman, I thank the gentleman.

The amendment merely requires the Secretary of Agriculture to collect data on the export sales of hides and have that data available so that it cuts down on the speculation. There is an allegation that there is tremendous speculation by a few trading comapnies because they have the exclusive knowledge and the exclusive data. This will prevent that, or at least help stop the speculation in hides and at least give us some information so that if the Committee on Agriculture comes back to this in the future they will have the data to make a policy statement on it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

The amendment was agreed to.

Mr. SWIFT. Mr. Chairman, I move to strike the last word.

(Mr. SWIFT asked and was given permission to revise and extend his remarks.)

Mr. SWIFT. Mr. Chairman, I would like to commend the gentleman from Washington, my good friend DON BONKER for his work to include in this bill a provision relating to the export of red cedar. His provision which was adopted by the committee would stop that export, and for good reason. Red cedar is disappearing from the forests of our Nation at an alarming rate. We have, at present use, as little as 8 to 10 years of red cedar left in this Nation—most of it in my congressional district and that of my colleague (Mr. BONKER).

Will not these magnificent trees grow again. Yes they will, but not in our life time, nor in the lifetime of our children and our grandchildren. Red cedar grows to commercially useful size in something like 300 to 500 years.

This ban on the export of this great natural resource extends only to public lands—that is Federal and State holding—not to trees that are privately owned. It only seems reasonable and enlighted self interest to preserve these trees to our own uses.

I support this bill and especially this provision and urge my colleagues to vote in favor of it.

The CHAIRMAN. Are there further amendments to section 109? If not, the Clerk will read.

The Clerk read as follows:

UNPROCESSED RED CEDAR

SEC. 110. (a) The Secretary of Commerce shall require a validated license, under section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, for the export of unprocessed western red cedar (Thuja plicata) logs, harvested from State or Federal lands. The Secretary shall impose quantitative restrictions upon the export of unprocessed western red cedar logs during the three-year period beginning on the effective date of this Act as follows:

(1) Not more than thirty million board feet scribner of such logs may be exported during the first year of such three-year period.

(2) Not more than fifteen million board feet scribner of such logs may be exported during the second year of such period.

(3) Not more than five million board feet scribner of such logs may be exported during the third year of such period.

After the end of such three-year period, no unprocessed western red cedar logs may be exported from the United States.

(b) The Secretary of Commerce shall allocate export licenses to exporters pursuant to this section on the basis of a prior history of exportation by such exporters and such other factors as the Secretary considers necessary and appropriate to minimize any hardship to the producers of western red cedar and to further the foreign policy of the United States.

(c) Unprocessed western red cedar logs shall not be considered to be an agricultural commodity for purposes of subsection (f) of section 7 of the Export Administration Act of 1969, as such section is redesignated by section 104(a) of this Act.

(d) As used in this subsection, the term "unprocessed western red cedar" means red cedar timber which has not been processed into—

(1) lumber without wane;

(2) chips, pulp, and pulp products;

(3) veneer and plywood;

(4) poles, posts, or pilings cut or treated with preservative for use as such and not intended to be further processed; or

(5) shakes and shingles.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 110 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there amendments to section 110? If not, the Clerk will read.

The Clerk read as follows:

CIVIL AIRCRAFT EQUIPMENT

SEC. 111. Notwithstanding any other provision of law, any product (1) which is standard equipment, certified by the Federal Aviation Administration, in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under the Export Administration Act of 1969. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act. For purposes of this section, the term "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 111 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the getnleman from New York?

There was no objection.

Mr. BONKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purpose of asking the floor manager of the bill a question about the intent of section 111.

Section 111 provides that standard, FAA-certified equipment in civil aircraft, which is an integral part of such aircraft shall be subject to export controls under the Export Administration Act.

I assume that applies to spares as well. That is, if a piece of equipment proposed for export as part of an airplane is subject to controls under the Export Administration, then identical equipment proposed for export as spares to replace the original equipment would also be subject to control under the Export Administration Act. Am I correct in that interpretation?

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield, the gentleman is correct. The intent of section 111 of H.R. 4034 is to provide for approval or denial under the Export Administration Act rather than under the Arms Export Control Act of exports to a country, other than a controlled country, of standard equipment, certified by the Federal Aviation Administration, which is an integral part of civil aircraft or spare parts for FAA certified equipment which is an integral part of civil aircraft. Such proposed exports may be reviewed by the Department of Defense, the Arms Control and Disarmament Agency, or the Department of State in cases where they might have important national security of foreign policy implications. Standard equipment certified by the FAA now subject to controls under the Arms Export Control Act could continue to be under that act if the proposed export were to a controlled country of if it were to another country where it would not be exported as an integral part of civil aircraft or as spares therefor.

The CHAIRMAN. Are there amendments to section 111? If not, the Clerk will read.

The Clerk read as follows:

NONPROLIFERATION CONTROLS

SEC. 112. (a) Nothing in section 5 or 6 of the Export Administration Act of 1969, as added by section 104(b) of this Act, shall be construed to supersede the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.

(b) With respect to any export license application which, under the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, is referred to the Subgroup on Nuclear Export Coordination or other interagency group, the provisions of section 10 of the Export Administration Act of 1969, as added by section 104(c) of this Act, shall apply with respect to such license application only to the extent that they are consistent with such published procedures, except that if the processing of any such application under such procedures is not completed within one hundred and eighty days after the receipt of the application by the Secretary of Commerce, the applicant shall have the rights of appeal and court action provided in subsection (k) of such section 10.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 112 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to

the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. DODD

Mr. DODD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DODD: Page 48, add the following section after line 22 and redesignate subsequent sections accordingly:

EXPORTS TO OPEC COUNTRIES

SEC. 113. The President shall review all United States exports to each country that is a member of the Organization of Petroleum Exporting Countries (OPEC) in order to determine whether such exports are consistent with the national security, foreign policy, and economic interests of the United States. In conducting such review the President shall take specifically into account the pricing of petroleum exports from each such country to the United States and any action taken by that country either to accomplish, or to impede, a comprehensive peace in the Middle East. The President shall also determine—

(1) which OPEC member countries, if any, rely upon United States goods and technologies, the particular goods and technologies involved, and the availability, from sources outside the United States, of such goods and technologies;

(2) the economic impact on each OPEC member country of prohibiting or restricting the export of any United States goods or technology to such country; and

(3) the impact on the United States economy of prohibiting or restricting the export of any United States goods or technology to such country.

The President shall submit to the Congress, not later than six months after the date of the enactment of this Act, a report containing the determinations made, and the findings of the review conducted, pursuant to this section.

Mr. DODD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

(Mr. DODD asked and was given permission to revise and extend his remarks.)

Mr. DODD. Mr. Chairman, this amendment is designed to address the very problem that we raised in the previous amendment that was raised by my colleague, the gentleman from Oregon, that was answered so eloquently by the gentleman from Washington (Mr. FOLEY).

The purpose of this amendment is not intended whatsoever in any way to prohibit or deny the export of any goods whatsoever to OPEC countries. What it does do is require the administration to review those exports and to report back to the Congress in 6 months to answer the very questions that we are having raised in editorials, proposed legislation, speeches, and Lord knows what else, over the issue of whether or not we have any economic leverage over OPEC. I seriously question whether we do, but I think it is important to answer the questions all of us receive from our constituents as to whether or not, in fact, we do have any economic leverage. We export some $18 billion a year in goods to OPEC countries. The majority of those goods are in manufactured goods, manufactured products, computers, drilling equipment, and so forth.

□ 1820

I think it is a legitimate question to raise as to whether or not we have any economic leverage. We are only going to know that if we make a proper review of those exports and a determination as to whether or not those exports are going to in any way harm, if they are curtailed, OPEC countries and what the economic effect would be in this country if we were to curtail exports.

I would point out to my colleagues that this particular amendment that we are considering today, the amendment that I have offered, asks the President to take into account the oil-pricing policies of OPEC nations in an effort to ascertain whether or not we have peace in the Middle East.

Furthermore, this amendment asks the President to determine which OPEC nations rely on what U.S. products. Their availability elsewhere determines that. What is the economic impact on each nation of restricting our exports, and what is the economic impact on this country with such restrictions?

The very act we are dealing with lays out the basic points that are to be considered when we deal with other nations. The Export Administration Act authorizes the President to regulate exports, to protect the domestic economy, to further U.S. foreign policy, and to protect our national security interests. That is what the legislation says.

I am suggesting with this amendment that we ought to review those exports to the OPEC countries and determine once and for all, if we can, what effect each of those exports would have on our national security, on domestic production, and, of course, on the economies of the countries affected.

I have been told by some that this would be considered a threat. I would say to my colleagues who raise that argument that it is in effect that in some way.

We all know what has happened to oil prices in our own country. There has been a 50 percent increase in prices last year and a 600-percent in the last 6 years.

I think it is only fair to the American public and in the interest of consumers in this country that we determine whether or not we have some economic leverage with OPEC and determine whether or not we could exercise that leverage before we go off and start issuing demagogic statements about how we are going to bring OPEC to its knees.

I think the purpose of the amendment, as far as the administration is concerned, is this: I think it would answer many of the questions I have and many of my colleagues have about our ability to bring OPEC to its knees.

Mr. Chairman, I urge the adoption of my amendment, and I yield back the balance of my time.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to amendment.

Mr. Chairman, I oppose the amendment reluctantly because I have the highest regard for the gentleman from Connecticut (Mr. DODD), and I know that his intentions are good. His intentions are excellent, but I think this is an untimely and inappropriate way to approach the problem.

The Subcommittee on Europe and the Middle East chaired by the gentleman from Indiana (Mr. HAMILTON) and the subcommittee that I have the honor to share, the Subcommittee on International Economic Policy and Trade, are committed to embarking soon on a thorough study of all the various ways in which we can deal with the OPEC problem.

Certainly the material covered by this amendment is one type of approach. But in its present form, by asking the President to make this review and make a report to the Congress, it does have a kind of threatening tone to it, which I think is unfortunate at this time.

Mr. Chairman, I would like to read for the benefit of the Members a statement that I have from the administration on this amendment. It is as follows:

The Administration opposes this amendment because it is dangerous and counterproductive to threaten or appear to threaten a termination or reduction of U.S. exports to nations who may engage in trade practices or adhere to foreign policy goals with which the United States disagrees.

A public report by the President on the information called for could easily be interpreted as a threat to impose export controls at a later date.

The amendment would have no discernible beneficial effect on U.S. economic or diplomatic goals, but would, on the contrary, be likely to irritate certain nations with whom the U.S. must maintain harmonious relations both to help protect American and Western economic interests and to promote a stable Middle East peace.

It is not necessary to conduct a study to know that certain leading OPEC members are indeed major importers of U.S. goods and technologies.

Mr. DODD. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Connecticut.

Mr. DODD. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I appreciate the gentleman's reading the administration's comments on this proposed amendment into the RECORD, but I would want to make two points.

One is that on the last point raised by the administration, I think we all know obviously that we export $18 billion worth of goods to OPEC countries. I am not contesting that fact, but I would think the administration would find it worthwhile to examine to what extent we are able to exercise leverage as to this country's efforts to secure peace in the Middle East and also possibly exercise some leverage in trying to stabilize OPEC oil prices.

As I pointed out earlier, we have seen a 50-percent increase in prices this year and a 600-percent increase in the last 6 years.

Certainly our good friends in Saudi Arabia have been rather reluctant to join us at the peace table.

I am not going to suggest that by cur-

tailing some exports we are going to accomplish that goal overnight, but I would think it would be in the administration's interests and in our interests here in the House and in the Congress to try to determine to what extent we might be able to impress upon the OPEC nations that we are serious in our peace efforts and we are serious when we say we want them to stabilize OPEC oil prices, not just for our own selfish interests but also in the interests of other industrialized nations that are also being hard pressed by these increased costs.

Mr. BINGHAM. Mr. Chairman, if I may reclaim my time, let me just say that there is a difference between the Congress agreeing to this kind of amendment and calling for this kind of study and some sort of study being made quietly and in a businesslike way by the administration.

I am sure that if our two subcommittees proceed with our general review of what we can do about the OPEC countries, this material will be studied and will be reviewed, and it is not necessary to offer such an amendment as this in this piece of legislation to accomplish that objective.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to this amendment, although certainly the motive of the gentleman from Connecticut (Mr. DODD) is proper and appropriate. However, I think the proposal would be viewed as apparently the first step toward controlling exports to OPEC countries. But with the magnitude of our trade deficit with OPEC, I think we should be looking for a way to increase our exports to OPEC, not decrease our exports to OPEC.

If exports to OPEC countries would be restricted, we would only be opening up markets further to our foreign competitors. I submit that at the present time our own exporters have a real difficult time in competing with the Germans, the Japanese, and others, who wish to enter into that market even more than they already are.

Mr. DODD. Mr. Chairman, will my good friend, the gentleman from California, yield on that point?

Mr. LAGOMARSINO. I yield to the gentleman from Connecticut.

Mr. DODD. Mr. Chairman, the gentleman from California (Mr. LAGOMARSINO) may be very correct in that statement, but I do not know that, and with all due respect, let me say that I do not know that my good friend knows the answer to that question.

The gentleman may very well be correct. We may open up new markets for our competitors. But we do not know that, and I think the only way we will ever know it is if we have a review of what our exports are and what it would do to our economy in this country if we curtailed them.

I hope the gentleman understands that I am not advocating that we should curtail exports. I am only suggesting that a study be made so we might review that situation and inform the people in this country honestly as to what the situation is.

We hear speculation from some quarters that this would be devastating to the economy, and we hear the gentleman from Oregon suggest that it would be devastating if we do not do something.

Mr. Chairman, I only suggest that it might be worthwhile to have the administration conduct a review and report to the Congress so we may have the answers to these questions.

Mr. Chairman, I thank the gentleman for yielding.

Mr. LAGOMARSINO. Mr. Chairman, if I intimated that I thought the gentleman from Connecticut (Mr. DODD) was for restricting imports, I apologize. It certainly was not my thought to do that.

I can say that although I do not know for sure what would happen, I know what a lot of American companies think would be the case if that happened. I know a lot of American companies feel right now that the competition is very severe, and that they have no lock at all on that business, as they did at one time.

I think that this would be viewed as threatening to withhold commodities from OPEC. I believe that is the way this would be perceived, and perception is as much reality as reality itself. That might more likely invite retaliation from them rather than the seeking of a resolution of our differences.

I am in favor of dealing forcefully with OPEC, but I suggest that a way to do that is with respect to grain sales. Let us get the other countries together. Maybe we can do that here, but I think it would be very, very difficult in the case of grain, with four or five major exporters at this time. And, in the case of industrial goods, I do not know how many we could get—probably not more than 20.

Mr. Chairman, I hope the amendment is defeated and I yield back the balance of my time.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am sorry that my amendment did not pass, and, therefore, I think a very solid and a very good case can be made—and I think the gentleman from Connecticut (Mr. DODD) has made it—that we should determine through a study exactly where we stand on exports to the OPEC nations. I would like to broaden it to all other nations, as a matter of fact.

□ 1830

I like the words of the distinguished gentleman from California who just spoke. He said he wanted to deal with OPEC forcefully. I ask the Members to think about that. They are the ones who are threatening us. They just raised the price of their oil another $7. That is a terrible threat to our economy and our well-being. They are the ones who are irritating us. That is far too soft a word. We should try to figure out exactly where we stand in this trade relationship we have. I think a study directed by this amendment would accomplish a great deal.

I say to the gentleman from California that I would like to call his attention to the fact that we do not need to form a cartel. We do not need to form a cartel. We export 77 percent of the corn. We are the cartel now. We export 83 percent of the soybeans. We are the cartel now. We do not need other nations to join us. It is our grain that is a drug on the world market. If we want to get a better price for grain to the OPEC nations, we must raise it, of course, to everyone, and that is in our best interest.

As to being a demagog, I would like to tell the members of the committee that the last thing in the world that I want to do is demagog this issue. It was the administration who went out, after my hearings on my bill in the Committee on Agriculture, and said that I wanted to charge $20 a bushel for our wheat. I certainly never said that, never implied it. I said, "Let us see how much we can get for our wheat. Let us do just what the Arabs did, what the OPEC nations did, and that is to continue to raise the price to see what the market will bear. Raise it up 50 cents, raise it up a dollar, just like the OPEC nations did, until we see."

I think we would be surprised, just like the OPEC nations were utterly amazed to find out that people would pay $3, at first, for oil, and then $12 and then $20, and now they are in the driver's seat. I think we should try to find that out. I in no way associate myself with the demagoguery, frankly, of the administration, who went out and said things about my bill, about $20 a barrel. I did coin the phrase "A barrel for a bushel," to dramatize the issue that at one time oil and grain were the same price. Once again we should strive, head toward the objective, if we want to survive in trade in this world.

Mr. VANIK. Mr. Chairman, I move to strike the requisite number of words.

(Mr. VANIK asked and was given permission to revise and extend his remarks.)

Mr. VANIK. Mr. Chairman, I oppose the amendment of the gentleman from Connecticut, the Honorable CHRISTOPHER J. DODD.

Our efforts should be to stimulate exports. The technology drain about which the gentleman complains has already occurred. If America decides to withhold exports of technology to the OPEC countries, they can procure it from European sources who acquired it from America at an earlier time. It could also be acquired from European enterprises in which American business has an equity. The amendment would insure the fuller utilization of other markets by the OPEC nations. This would increase our trade deficit and create further inflationary pressures.

Our efforts should be directed to more carefully monitor imports. Today, Nigeria increased its oil prices by $3 per barrel from $23.47 to $26.50. Nigeria does not have a record of purchasing very much from the United States.

In 1977 we bought $6 billion in oil and sold Nigeria $1 billion in goods. In 1978 we purchased $4.7 billion in oil and had sales of about $1 billion. Between January and July of 1979, the trade balance

was even worse. We bought $4,027,000,000 in oil and sold Nigeria only $317 million in goods under circumstances when other foreign countries were finding bargains in America because of our depressed currency.

As circumstances permit, we should try to direct our oil purchases to those nations who buy from us.

At this point of time, it is far more important for America to develop an import policy which strives toward trade balance.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. DODD).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to section 112? If not, the Clerk will read.

The Clerk read as follows:

VIOLATIONS

SEC. 113. Section 11 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.".

(2) Subsection (b) is amended to read as follows:

"(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or $100,000, whichever is greater, or imprisoned not more than ten years, or both.".

(3) Subsection (c)(2)(A) is amended by striking out "articles, materials, supplies, or technical data or other information" and inserting in lieu thereof, "goods, technology, or other information".

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent that section 113 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there amendments to section 113?

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN: Page 49, line 13, insert "(1)" after "(b)".

Page 49, insert the following after line 20:

"(2) Any person who is issued a validated license under this Act for the export of any good or technology to a controlled country and who, with knowledge that such good or technology is being used by such controlled country for military or intelligence gathering purposes, fails to report such use to the Secretary of Defense, shall be fined not more than five times the value of the good or technology involved or $100,000, whichever is greater, or imprisoned for not more than ten years, or both. For purposes of this paragraph, 'controlled country' means any communist country as defined in section 620 (f) of the Foreign Assistance Act of 1961.".

Page 49, line 20, strike out the closed quotation marks and final period.

Mr. DORNAN. Mr. Chairman, in his magnificent speech before the AFL-CIO on June 30, 1975, writer Alexander Solzhenitsyn recalled the penetrating insight of the father of Soviet communism, Lenin, into the sad behavior of a myopic capitalist class which has lost the will to defend its own interests. I quote Solzhenitsyn from that brilliant speech:

I must say that Lenin foretold the whole process, Lenin, who spent most of his life in the west and not in Russia, who knew the West much better than Russia, always wrote and said that the western capitalists would do anything to strenghten the economy of the USSR. They will compete with each other to sell us goods cheaper and sell them quicker, so that the Soviets will buy from one rather than from another, he said: "comrades, don't panic, when things go very hard for us, we will give a rope to the bourgeoisie, and the bourgeoisie will hang itself.

Then, Karl Radek, who was a very resourceful wit, said: "Vladimir Ilyich, but where are we going to get enough rope to hang the whole bourgeoisie?" Lenin effortlessly replied, "they will supply us with it."

I do not like to think of people in terms of class. No one in this body does. I do not think that anything more than a small fraction of the business community is as decadent or as myopic as the Communists of the East suggest. But we must face up to a truth that can no longer be ignored.

There are indeed crass business interests, whose whole world is defined solely in terms of profit margins and balanced books, and who would indeed sell the Soviet Union that technological rope whereby they could hang all of us, that is, incinerate us in a nuclear inferno. If this were not true, if this were only pure fantasy, what I am not saying, we would not need this act at all. We would not even be debating this measure and its amendments. There would be little need for definitions, controls, rules, regulations or records pertaining to the export of high-level technology. But, of course, we live in a radically different world than that ideal utopia where all businessmen are honest, upright, broadminded and patriotic. It is not my intention this evening to get involved in personalities or discuss in detail the attitudes and actions of a very few, select companies, which I, and most of the American people, find reprehensible and dirctly contrary to the security of the Nation. However, we know the problem exists. It cannot be dismissed. It cannot be ignored.

Some weeks ago, Jack Anderson carried a story on the secret testimony of Larry Brady, formerly Acting Director of the Commerce Department's Export Office.

□ 1840

It was the talk of our cloakroom on the minority side, and I assume the same on the majority side. Jack Anderson made public what most of us in this House have known all along, the export control systems are in a shambles and that the safeguards written into the regulations are not worth the paper they are written on. That is an Anderson quote.

The Soviets now sign "end-use" statements promising they will not divert hardware for military purposes.

Anderson continued in that column:

There is no effective way to make sure that the Soviets live up to their promise. Instead the Commerce Department relies on the fox to guard the henhouse. On-site inspections are made by representatives of the U.S. companies that sold the products. Not only are these employees often non-Americans, but they have a very strong motive for ignoring Soviet violations, explained Brady.

The company wants to sell more, and he knows very well that if he reports a diversion to military use, he is not going to be able to sell more.

"For the same selfish reasons American company executives are unlikely to squeal on their customers, another Commerce Department official told us"—and "us" being Jack Anderson—end of his column.

Mr. Chairman, enough is enough. The patience of the American people has been tried. We have to put teeth into our laws and to prevent the leakage of our hardware to Soviet military use through violations of Soviet-American trade agreements and diversion.

The CHAIRMAN. The time of the gentleman from California (Mr. DORNAN) has expired.

(By unanimous consent, Mr. DORNAN was allowed to proceed for 1 additional minute.)

Mr. DORNAN. The total volume of trade with the Soviet Union has jumped from $191 million in 1970 to $2.8 billion last year. During that same period, total trade with all of the Communist bloc nations has increased from $579 million to more than $6 billion.

There has, in other words, been a tremendous growth in the volume of trade. There is solid evidence that a substantial part of that traffic—computers; ballbearings, and chemical processes have direct military application.

For those reasons, I simply ask my colleagues to put teeth into this bill, and that is the substance of my amendment.

I urge its adoption.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from California, who has just attended with me an interesting visit to the Soviet Union to see how their people are denied common consumer goods, to the direct technology and scientific community.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I was going to refer to our trip also.

Everything I saw leads me to the conclusion that the people, especially the people, the members of the Supreme Soviets in the Presidium, whom we met with, are every bit as dedicated to the

ideals of Lenin as they ever were. I think the gentleman's amendment is an improvement to the bill. I accept it.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the amendment.

We have in this bill doubled the penalties for violations of this entire bill.

The gentleman's amendment would provide a special penalty of $100,000 or 10 years in prison for one particular kind of violation, a violation of something which is already prohibited under the law.

It would provide a more severe penalty, for example, than somebody exporting an item of military significance without a license, or a deliberate violation of the law.

Now, the fact of the matter is that not only does the amendment offend in this respect, but the amendment is entirely unnecessary, because the Commerce Department already has the authority to apply penalties to persons failing to report diversions under paragraph 387.5(c) of the Export Administration regulations issued under the existing law. Those regulations read in pertinent part:

> Every person who has made any representation, statement, or certification must notify, in writing, the Office of Export Administration of any change of any material fact or intention from that previously represented, stated, or certified. Such notification shall be made immediately upon receipt of any information which would lead a reasonably prudent person to believe that a change of material fact or intention has occurred or may occur in the future.

Now, that would apply to the situation the gentleman is referring to. That is the case where there have been assurances of and use that were then violated and it came to the attention or should have come to the attention of the shipper.

Under this, under our bill, violation of this provision would bring a penalty of up to $50,000 and/or 5 years of imprisonment for violation of that provision.

So that this is the type of amendment which I do not think we should try to deal with on the floor at this late hour. It is something that was not brought up before the committee. The problem is taken care of in the existing legislation. I hope the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DORNAN).

The question was taken; and on a division (demanded by Mr. DORNAN) there were—ayes 7, noes 11.

Mr. DORNAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1900

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from California (Mr. DORNAN) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

Mr. BINGHAM. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. AUCOIN), having assumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the amendments considered on the bill, H.R. 4034.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 399, MAKING CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1980

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 96-441) on the resolution (H. Res. 408) providing for the consideration of the House joint resolution (H.J. Res. 399) making continuing appropriations for the fiscal year 1980, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 402, MAKING CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1980

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 96-442) on the resolution (H. Res. 409) providing for the consideration of the House joint resolution (H.J. Res. 402) making continuing appropriations for the Federal Trade Commission for the fiscal year 1980, and for other purposes, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT OF CONFEREES ON S. 640, MARITIME APPROPRIATION AUTHORIZATION ACT, 1980

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 640) to authorize appropriations for fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York? The Chair hears none and, without objection, appoints the following conferees: Mr. MURPHY of New York, Mr. BIAGGI, Ms. MIKULSKI, Messrs. DONNELLY, MCCLOSKEY, and SNYDER.

There was no objection.

PERSONAL EXPLANATION

Mr. MITCHELL of Maryland. Mr. Speaker, I ask that the RECORD reflect that I and four of my colleagues were downstairs in room H-139 on the final passage of the transportation appropriations bill. We missed the vote.

Had I been present, I would have voted "aye" on final passage on that piece of legislation.

REGULATION COSTS EVERYONE

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, too often we lose sight of the impact that our ever-increasing bureaucracy and the cost of rules and regulations have on individuals in our country.

Business and industry come up against these regulations and their costs every day, and we are all aware of the burden that government intervention has had on the small businessman. It is important that we not forget that this burden is passed on to the American people in the form of increased costs for products and services, as well as through inflation and unemployment.

I urge my colleagues to take the time to read the following editorial that appeared in the DePere Journal, DePere, Wis. The editors of that paper have reminded us that we are all affected in many ways by overregulation and we must continue to fight the battle of the growing bureaucracy.

The following editorial appeared on September 6, 1979:

THE PRICE OF REGULATION

(Every government official or board that handles public money should publish at regular intervals an accounting of it showing where and how each dollar is spent. We hold this to be a fundamental principle of democratic government.)

What does government regulation have to do with me?

Many of us ask that. While red tape and filling out forms may be rough for the merchant and manufacturer, that, after all, is one of the headaches of doing business. It doesn't cost us anything.

Or does it?

The hard fact is that excessive regulation, which has multiplied in recent years, doesn't stop with the person or firm being regulated. The impact takes a variety of forms, but two stand out—inflation and unemployment.

When government piles on new rules and regulations, businesses have to spend money to comply. This boosts their costs and, if they don't want to go broke, they have to pass those extra costs along in the form of higher

cide they do not want any pay raise for anybody, they have that opportunity, too.

What I want to impress upon the Members is the necessity of adopting the continuing resolution. There are three matters which absolutely must be adopted before October 1 or this Government begins to falter. Let us not fall by the weight of our intransigence.

One of those that must be adopted by that date is this continuing resolution. Another is the question of the debt limit. The third is the need for implementing legislation to permit the United States to continue to exercise an influence and protect the rights and interests of the United States in the operation of the Panama Canal.

Unless those three are passed, I think this House has an obligation to the people of the United States to forego the home district work period scheduled for the early part of October and to remain on the job until we have done those three things that are so essential to the orderly continuance of this Government.

So I urge the Members to vote for this rule, and when this continuing resolution comes before us and the Members have worked their will, whatever it may be, to support the continuing resolution. I urge them then to support the extension of the debt limit, and finally to support the implementing legislation that permits the United States to have a continuing hand until the year 2000 in the operation of the Panama Canal. Until those things are done, we give a poor account of ourselves.

I have greater faith in the Members of this House than to believe that we will go home having failed in our duty to the Nation and to the people who sent us here to be their stewards.

Mr. LATTA. Mr. Speaker, I yield myself 2 minutes.

I was not going to take this time until I listened to my good friend from Texas. Let me say that I join with him in urging the House to adopt this rule and adopt it very quickly.

I do not know of a fairer rule that could be reported out by the Rules Committee for all sides than this rule we now have under consideration, because it is a completely open rule on the subject of compensation. Whether you are for or against a pay raise, this is taken care of. There is no use, as we have done many, many times in the past in this House, in wasting valuable time of this House in having a rollcall on a rule that is open to everybody. I think it is high time we stopped wasting time and we get on with the business of the House.

There are two other things that the distinguished majority leader mentioned about the work of this House. We could expedite it as far as the budget is concerned by reducing the budget that was rejected by the House, and we could also take care of that debt limit by taking out the Gephardt amendment that I am sure caused a lot of controversy. We could reduce the amount, and we could pass it very rapidly.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, a member of the staff just informed me that if this rule is adopted today, and I have no objection to the rule, that we may not take up the continuing resolution and consider it today. Is that true?

The SPEAKER. I would respond to the gentleman that the answer is in the affirmative. The continuing resolution will be brought up on Tuesday.

Mr. BAUMAN. On Tuesday?

The SPEAKER. Yes. We will go right into Mr. BINGHAM's resolution and I hope we can complete it today.

Mr. BAUMAN. If the gentleman will yield further, if we are not going to bring up the continuing resolution, then what is all of this talk about the rush to pass all of these things?

Mr. LATTA. Let me say to the gentleman that that is news to me.

Mr. BAUMAN. I think the House ought to at least know what is going on, it seems to me.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Before the Chair recognizes the gentleman from New York (Mr. BINGHAM) I would say I hope the Members appreciate that the House will adjourn at 1 o'clock today, in view of the fact that beginning at 5 o'clock it is a religious holiday for some people and some Members. In order to give them an opportunity to get to their homes, the House will adjourn at 1 o'clock.

□ 1110

EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 4034, with Mr. YATES, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, September 18, 1979, the Clerk had read through line 24 on page 49.

Are there further amendments to section 113?

Mr. BINGHAM. Mr. Chairman, I move to strike the last word.

(Mr. BINGHAM asked and was given permission to revise and extend his remarks.)

Mr. BINGHAM. Mr. Chairman, once again I appeal to the Members to be cooperative. It is essential that we finish this bill by 1 o'clock today. Otherwise, we are going to get completely shunted aside next week by the obvious problems that face us. I can assure Members that as manager of the bill I will be as conciliatory as possible in accepting amendments that I may not be too happy with, but that I think we can work out in conference.

I have already worked out one such arrangement with Mr. DORNAN, and I think I can work out such an arrangement with Mr. MILLER. We will have the Dannemeyer amendment which deserves discussion, but in view of the fact that I think the outcome of that amendment is perfectly clear and the gentleman cannot prevail with that amendment, I think that after an initial speech of 5 minutes in favor and an opposing speech by, presumably, Mr. MCKINNEY in opposition, there should be a limitation of time of 10 or 15 minutes in which Members can get permission to revise and extend their remarks and get on the record in opposition to or in favor of that amendment.

There is the amendment to be offered by Mr. PRYOR, with a substitute to be offered by Mr. DORNAN. That may take about a half hour in toto. I think we can finish this, but it will take a maximum of cooperation from the Members. I would urge the Members, please, unless it is absolutely necessary, not to seek record votes. If we can keep the Members on the floor and proceed by voting by division, I think we can conclude.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. DORNAN: Page 49, line 13, insert "(1)" after "(b)".

Page 49, insert the following after line 20: "(2) Any person who is issued a validated license under this act for the export of any good or technology to a controlled country and who, with knowledge that such a good or technology is being used by such controlled country for military or intelligence-gathering purposes willfully fails to report such use to the Secretary of Defense, shall be fined the sum equal to the amount of gross profit accrued from the sale of the item or $100,000, whichever is greater, or imprisoned for not more than 5 years, or both. For purposes of this paragraph, "controlled country" means any Communist country" as defined in section 620(f) of the "Foreign Assistance Act of 1961." Page 49, line 20, strike out the closed quotation marks and final period.

Mr. DORNAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. KINDNESS. Mr. Chairman, reserving the right to object, could we know the subject matter of the amendment before it is agreed to?

Mr. DORNAN. Mr. Chairman, I did

not take into consideration the fact that it has been 3 days since we have considered this. The amendment is not that long, and it does involve a slight change, and the Chairman has graciously accepted it. So, I will go ahead and ask the Clerk to read the amendment.

Mr. KINDNESS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. The Clerk will read the amendment.

The Clerk concluded the reading of the amendment.

Mr. DORNAN. Mr. Chairman, in the interest of time and also in an attempt to be conciliatory, because the Chairman has been so gracious in this, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DORNAN. Mr. Chairman, I would like to point out to the Chairman that the amendment I had at the desk until a few minutes ago was the one we agreed on yesterday. However, I want to ask if the gentleman could accept one further change. If not, we will engage in a colloquy on it to put in the language.

Th gentleman originally had in the penalties section of his bill the figure of $100,000. That is added to what we agreed to yesterday. I accepted the word "willfully" and the reduction of sentences for violation of the provision from 10 years to 5 years in the penalty. But we had neglected to see that we had left out at least a minimum fine of $100,000.

In most of the products we are talking about here, the profit is in the millions, so there would never really be a circumstance that I can foresee where it would be even as low as $100,000. But, can the gentleman accept the slight change of putting that figure back into the original bill languge?

Mr. BINGHAM. Mr. Chairman, if the gentleman would yield, that does make a change from what I understood we had agreed to yesterday, but in the interest of time and in the thought that if there are imperfections we can perhaps work them out in conference; I am glad to accept the amendment.

Mr. DORNAN. I thank the Chairman.

Mr. Chairman, in his magnificent speech before the AFL-CIO on June 30, 1975, writer Alexandr Solzhenitsyn recalled the penetrating insight of the father of Soviet communism, Lenin, into the sad behavior of a myopic Capitalist class which has lost the will to defend its own interests. Let me quote Solzhenitsyn's words:

> I must say that Lenin foretold the whole process. Lenin, who spent most of his life in the West and not in Russia, always wrote and said that the Western capitalists would do anything to strengthen the economy of the U.S.S.R. They will compete with each other to sell us goods cheaper and sell them quicker, so that the Soviets will buy from another, he said: "Comrades, don't panic, when things go very hard for us, we will give a rope to the bourgeoisie, and the bourgeoisie will hang itself."
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> Then Karl Radek, who was a very resourceful wit, said: "Valdimir Illyich, but where are we going to get enough rope to hang the whole bourgeoisie?" Lenin effortlessly replied, "they will supply us with it."

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There are indeed crass interests, whose whole world is defined solely in terms of profit margins and balanced books, who would indeed sell the Soviet Union that technological rope whereby they could hang all of us; that is, incinerate us in a nuclear inferno. If this were not true, if this were only pure fantasy, then we would not need this act at all. We would not even be debating this measure and its amendments.

There would be little need for definitions, controls, rules, regulations, or records pertaining to the export of high level technology. But, of course, we live in a radically different world than that ideal utopia where all businessmen are honest, upright, broadminded, and patriotic. It is not my intention, this evening, to get involved in personalities or to discuss in detail the attitudes and actions of a very few, select companies which I, and most of the American people, find reprehensible, and directly contrary to the security of the Nation. However, we know the problem exists. It cannot be dismissed. It cannot be ignored.

Some weeks ago, Jack Anderson carried a story on the secret testimony of Larry Brady, formerly Acting Director of the Commerce Department's Export Office. It was the talk of the cloakroom on the minority side, and I assume the same on the majority side. Jack Anderson made public what most of us in this House have known all along: The export control systems are in a "shambles," and that the safeguards written into the regulations are "not worth the paper they are written on." that is an Anderson quote. The Soviets now agree to accept end-use statements promising they will not divert hardware for military purposes. Anderson continued in that column, "* * * there is no effective way to make sure that the Soviets live up to their promises. Instead, the Commrece Department relies on the fox to guard the henhouse; onsite inspections are made by representatives of the U.S. companies that sold the products. Not only are these employees often non-Americans, but they have a strong motive for ignoring Soviet violations," explained Brady—

> The company wants to sell more . . . and he knows very well that if he reports a diversion to military use, he's not going to be able to sell more.

For the same selfish reasons American company executives are unlikely to squeal on their customers, another Commerce Department official told us, "Us" being Jack Anderson.

Mr. Chairman, enough is enough. The patience of the American people has been tried. We have to put teeth into our laws to prevent the leakage of our hardware to Soviet military use, through violations of Soviet-American trade agreements and diversion.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to my colleague from California.

Mr. LAGOMARSINO. Mr. Chairman, we accept the amendment on the part of the minority with the same observations that the Chairman made, that we want to look at this in conference.

Mr. DORNAN. I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DORNAN).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there additional amendments to section 113? If not, the Clerk will read section 114.

The Clerk read as follows:

CONFIDENTIALITY

SEC. 114. (a) Subsection (c) of section 12 of the Export Administration Act of 1969, as such section is redesignated by section 104 (a) of this Act, is amended—

(1) in the first sentence by striking out "is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information" and inserting in lieu thereof "would reveal the parties to an export or re-export transaction, the type of good or technology being exported or re-exported, or the destination, end use, quantity, value, or price of such good or technology"; and

(2) by striking out the last two sentences and inserting in lieu thereof the following: "Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.".

(b) The amendment made by subsection (a)(1) shall not require the withholding of any type of information which, immediately before the effective date of this Act, is not withheld from disclosure under section 7(c) of the Export Administration Act of 1969.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 114 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN: Page 50, line 4, strike out the dash and all that follows through page 51, line 7, and insert in lieu thereof the following: "by striking out the last two sentences and inserting in lieu thereof the following: "Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any

committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.".".

□ 1120

(Mr. DORNAN asked and was given permission to revise and extend his remarks.)

Mr. DORNAN. Mr. Chairman, as reported by the Committee on Foreign Affairs, H.R. 4035 would exempt Commerce Department records in the export control area from public disclosure under the Freedom of Information Act. My amendment would eliminate this unwarranted blanket exemption, which is being urged upon us by the Commerce Department, and allow public scrutiny of the Commerce Department's administration of our Nation's export restrictions.

To this end, my amendment would continue current law, under the Export Administration Act of 1969, as amended in 1977, and as interpreted by the courts. In fact, except for minor changes, the exact language of current law is incorporated into the bill by my amendment.

First, I would adopt the suggestion urged by the Committee on Foreign Affairs to broaden congressional access to export administration records. As some may remember, prior to 1977, the Commerce Department interpreted the confidentiality section of the Export Administration Act to bar disclosure of information from Congress itself. The Congress took action in the Export Administration Act amendments of 1977 to correct the Department of Commerce's creative interpretation of the 1969 act, by providing that "nothing in this act shall be construed as authorizing the withholding of information from Congress * * *" At the time, everyone thought that this language would make the law clear. But the Commerce Department has taken the position, which it takes to this day, that despite the clear legislative history to the contrary, this 1977 amendment applies only prospectively and does not require provision of information to the Congress with respect to license applications pending on the effective date of the 1977 amendment.

Now, in 1979, we must try for the second time to amend a seemingly unambiguous law, with our fingers crossed, hoping that this time the Commerce Department will not devise still another spurious basis on which to deny congressional requests for export information. By providing that disclosures shall relate to all information obtained "at any time under this act or previous acts." I hope the Congress will win the final battle for access to information against a recalcitrant Commerce Department.

It should also be realized that there has been litigation under the Freedom of Information Act in Federal courts by parties seeking access to information acquired under the Export Administration Act. It has now been decided by the U.S. Court of Appeals for the District of Columbia, in the case of *American Jewish Congress* v. *Kreps* (574 F. 2d 624 (D.C. Cir. 1978)), that section 7(c) of the Export Administration Act, as amended, does not completely exempt all export records from the Freedom of Information Act, under exemption 3.

Nonetheless, all eight other exemptions of the Freedom of Information Act would continue to apply such as: Exemption 1, national defense and foreign policy; exemption 4, trade secrets and commercial or financial information; and exemption 5, interagency or intra-agency memorandum or letters. The Commerce Department did not seek a writ of certiorari to obtain U.S. Supreme Court review of this case. This case was properly decided.

To reiterate, under current law, information and records obtained pursuant to "the Export Administrtaion Act" are not blanketly exempted from disclosure. But neither are they disclosable without restriction. Simply put, they are available under the Freedom of Information Act except where an exemption applies, as determined on a case-by-case basis. This is current law, and my amendment continues current law.

Exports are not unlike thousands of other business transactions in which Government collects certain information from business in order to make proper decisions. To protect business interests, the Freedom of Information Act exempts from public disclosure (exemption No. 4) "trade secrets and commercial or financial information obtained from a person and privileged or confidential." In this way, Government decision-making continues to be subject to public review, under "the Freedom of Information Act," but the interests of the companies submitting information are properly protected. The Freedom of Information Act should apply to export transactions as well.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. DORNAN. Mr. Chairman, I ask unanimous consent that I be allowed to continue for 2 additional minutes.

Mr. BINGHAM. Reserving the right to object, Mr. Chairman, hereafter I am going to object to requests for additional time.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Without objection, the gentleman from California (Mr. DORNAN) will be allowed to continue for 2 additional minutes.

There was no objection.

Mr. DORNAN. Mr. Chairman, the public has a right to know about its government. As a former broadcaster, I cannot help but believe that the public values its right to know how its government works. For example, it seems to me the American public has a right to know whether strategic materials are being shipped to Communist countries and whether these exports diminish our national security. If certain exports of critical American technology and goods are being used to strengthen the warmaking potential of Communist countries, as many contend, I believe the American public should be able to find out about it. Secrecy fosters suspicion and secrecy here is unnecessary. The Commerce Department would undoubtedly argue we should simply trust them to protect our interests, and that public scrutiny is unnecessary, but I cannot imagine that that view would sway this body. Government works best when subject to public review of its actions. The Commerce Department is no exception.

Allowing public access to these records will have no impact on our national security. National defense and foreign policy matters are already exempt under the Freedom of Information Act. Moreover, even in the case of U.S. trade with the Soviet Union, the Soviets already know what materials they imported from us. If the Kremlin has this information, why not allow the American people to have it?

Mr. Chairman, adoption of this bill's virtual blanket exemption would signal a sharp reversal of our public policy of wider access to Government records beginning with the passage of the Freedom of Information Act. This act was designed to compel the Federal Government to become more accountable to the American public, the ultimate judge of all Government policies, by making more information available about Government activities. But this bill's exemption has not been even considered by the Subcommittee on Government Information and Individual Rights of "the Committee on Government Operations," which has jurisdiction over "the Freedom of Information Act." As I understand it, it was only proposed late in the Foreign Affairs Committee's consideration of the bill, by a Commerce Department seeking to eliminate public scrutiny of its actions. No witnesses testified on this exemption No. 3 except for a brief reference by a Commerce Department witness and it was never even considered by the relevant subcommittee. This exemption would constitute a significant inroad into the Congress' often-stated policy to provide for maximum public disclosure of public records. Such blanket exemptions should only, if ever, be granted after a full review by the committees responsible for export policy, and for "the Freedom of Information Act." This has not been done.

Mr. Chairman, the only way to protect "the public's right to know" is to allow public access to these records, except where barred by the current exemptions to "the Freedom of Information Act." To create a blanket exemption would be a victory for an executive department afraid of public review. To continue current law as my amendment does, would be a victory for the public's right to know.

AMENDMENT OFFERED BY MR. PREYER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DORNAN

Mr. PREYER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. PREYER as a substitute for the amendment offered by Mr. DORNAN: Page 50, strike out line 2 and all that follows through page 51, line 7, and insert in lieu thereof the following:

SEC. 114. Subsection (c) of section 12 of the Export Administration Act of 1969, as such section is redesignated by section 104 (a) of this Act, is amended to read as follows:

"(c)(1) Except as otherwise provided by the third sentence of section 8(b)(2) and by section 11(c)(2)(C) of this Act, information obtained under this Act on or before June 30, 1980, which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest.

"(2) Any department or agency exercising any function under this Act may withhold information obtained under this Act after June 30, 1980, only to the extent permitted by statute, except that information concerning licensing of exports filed under this Act shall be withheld from public disclosure unless the release of such information is determined by the head of such department or agency to be in the national interest.

"(3) Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommitee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.".

Page 60, strike out lines 1 through 7 and redesignate subsequent paragraphs, accordingly.

Mr. PREYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. PREYER. Mr. Chairman, I have a substitute for the Dornan amendment at the desk. I ask unanimous consent that the amendment be considered as read.

I offer the amendment because I believe that the provision now in the bill and the Dornan amendment will do unnecessary damage to the concept of access to properly disclosable information.

As reported, section 114 would totally and permanently exempt from disclosure a broad category of information relating to exports. Chiefly at issue here is the information reported on the Commerce Department document known as the "Shipper's Export Declaration" or SED. An SED must be filed for each export from this country. Under the bill, none of the data on an SED would ever be made public. This blanket exemption is unnecessary and unwise for two major reasons.

First, some of the information that the bill seeks to protect is not confidential in any way. No one disputes that some of this information can be obtained from several sources. Why should we prohibit one agency from disclosing information that is already available from another agency or from public sources?

Second, export information which is legitimately confidential already receives a full measure of protection under the Freedom of Information Act. There is no need to provide additional protection under other laws.

H.R. 4034 would lock up much export information forever. However, my substitute does not go to the other extreme and make information automatically available. My amendment is a compromise, incorporating both Freedom of Information principles as well as the practical needs of the Commerce Department and exporters. Under my amendment, export data already filed with the Department of Commerce would continue to have the protection that Commerce seeks. In addition, this protection would extend to information collected during the rest of this year. Thus, no information already collected with an expectation of confidentiality would be disclosed under my amendment. Further, everyone would have a transition period of almost 6 months to prepare for the new rules.

The new rules that would take effect on June 30 of next year are very simple and very familiar. Documents filed after that date would be subject to the Freedom of Information Act. The act provides sufficient protection for confidential business data. The fourth exemption specifically covers trade secrets and confidential commercial information. Legitimate business confidentiality will not be breached.

There are additional reasons why it is important that my amendment be adopted. They are inflation and the balance of payments.

As early as 1976, the Treasury Department recognized that increased access to export information would lead to better and cheaper services in the export industry. In turn, this makes U.S. exporters more competitive with foreign suppliers. The Treasury Department amended its regulations in 1976 to make available from Customs Service documents much of the same information which is at issue here.

My amendment is necessary because the Treasury regulations are not universally followed and much data which should be public is not. Because Commerce Department regulations require that the shipper's export declaration be fully and accurately completed, the problems of gathering information from Customs documents will be avoided.

Current disclosure practices for some export related information would not be affected by my amendment. Where export licenses are required, my amendment allows for full protection of confidential information related to the license application. In this regard, my amendment does not differ from the bill. For the publication of export license information, my intent is identical to the intent reflected in the report of the Committee on Foreign Affairs. Also, my amendment does not differ from the bill with regard to the disclosure of boycott data. Current disclosure practice for this data will prevail.

In conclusion, let me note that the free flow of information is essential to a free market economy. We have a chance here to let the information work for us by lowering costs and helping the dollar. This is why so many businesses are in favor of the publication of export information. I urge my colleagues to support it as well.

□ 1130

Mr. FASCELL. Mr. Chairman, would the gentleman yield on that point?

Mr. PREYER. I am glad to yield.

Mr. FASCELL. As I gather what the gentleman is saying, the amendment which the gentleman proposes would make public confidential business information.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. PREYER) has expired.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the substitute. The Preyer substitute is a well balanced approach that will allow for the orderly release of information.

At the same time, it will also protect against the release of confidential business information or information related to our national security. Export license applications, most of them covering items controlled for reasons of foreign policy or national security, are specifically excluded from disclosure under this amendment. Other information submitted by exporters may also be withheld under the Preyer amendment where it meets the standard for protection of confidential commercial information under exemption 4 of the Freedom of Information Act.

The current language of the bill restricts the disclosure of export information too narrowly. It is generally agreed that much of the export data supplied by shippers is not secret, so there is no reason to create a general exemption for it. Moreover, having some export data available—such as who is shipping what products to which countries—should help spur export competition. It will enable exporters, shippers, and transporters to compete more effectively in world markets. The Preyer amendment will permit these benefits, without violating legitimate business confidentiality.

The amendment also provides for a rather long transition period until December 31, 1979. This will allow adequate time for the Department of Commerce and shippers to make necessary preparation for release under the new rules. I believe this amendment balances a number of competing interests in a fair and even handed way. I urge the adoption of the substitute.

I yield to the gentleman from North Carolina to answer a question that I am going to propound here.

I gather what the gentleman is saying here is that the principal amendment for which the gentleman proposes this substitute would make public confidential business information which is now in the export license application; is that what the gentleman said?

Mr. PREYER. My amendment would make available information that relates to export information. This is the information that shippers want to know.

Mr. FASCELL. I was talking about the principal amendment.

Mr. PREYER. Oh, I am sorry.

Mr. FASCELL. The Dornan amendment.

Mr. PREYER. The Dornan amendment makes available information from the licensing process.

Mr. FASCELL. That is what I thought the gentleman said.

Mr. PREYER. It involves much confidential business information.

Mr. FASCELL. Business information, yes.

Mr. PREYER. Yes, which should not be released.

Mr. FASCELL. And which heretofore has not been released.

Mr. PREYER. Right.

Mr. FASCELL. And generally has been accepted as a trade matter which should be kept confidential.

Mr. PREYER. The gentleman is correct. This would be a broad new expansion, a new doctrine.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I do not mean to disagree—actually, I do mean to disagree.

I am proposing that we keep current law. Current law now is that this information is available under the Freedom of Information Act.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the chairman.

Mr. BINGHAM. The problem is that the current law turned out to be unsatisfactory in the light of the Freedom of Information Act. The gentleman in the well is probably the expert on this subject.

The reason the current law is unsatisfactory is that the courts have interpreted the Freedom of Information Act to in effect overrule the intention of the Congress when it extended the Export Administration Act in 1977.

The gentleman is technically correct that the amendment will leave the law as it is, but it does not meet the problem.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for making that explanation. That is the reason I rose, because it seems to me that what we were trying to deal with is to correct a very difficult situation, because the present law was not adequate in balancing off the interest of the right to know and the freedom of information and still protect business confidentiality. It seems, to me, quite clear that the substitute amendment of the gentleman from North Carolina does that.

Therefore, Mr. Chairman, I rise in strong support of the substitute and urge my colleagues to support it.

(Mr. FASCELL asked and was given permission to revise and extend his remarks.)

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. Yes; I would be delighted to yield.

Mr. QUAYLE. Mr. Chairman, I thank the gentleman from Florida.

I commend the gentleman from North Carolina, who has been an expert and a leader in this field of the Freedom of Information Act and serves as its chairman. I was fortunate enough in the last Congress to serve on that subcommittee.

I have a couple questions. First of all, on that date of June, 1980, what about all the past information that has been compiled up to that? Are we putting a freeze on secrecy on all that information up to June of 1980?

Mr. PREYER. Mr. Chairman, if the gentleman from Florida wishes to yield to me to answer, I would be glad to respond. I do not believe I have the time.

Mr. FASCELL. I was not paying that close attention.

Mr. PREYER. The gentleman from Florida has the time.

Mr. QUAYLE. The gentleman from Florida has the time.

Mr. FASCELL. I was going to say, I yield to the gentleman from North Carolina.

Mr. PREYER. Mr. Chairman, the answer to the gentleman's question is yes. What this bill does is to grandfather in confidentiality for information that has been received under a pledge of confidentiality by the Commerce Department. We do not think it is fair to say retroactively that information which businesses gave with the understanding that it was confidential should be now open and available. My amendment does freeze that information; its effect begins as of June 30, 1980, and in the future.

Mr. QUAYLE. Mr. Chairman, would the gentleman from Florida, who is controlling the time, be good enough to yield further?

Mr. FASCELL. I would be delighted to yield.

Mr. QUAYLE. Mr. Chairman, I just would like to follow up on that one point of confidentiality. I was under the impression that these companies furnish that information on the basis of confidentiality, because it says confidential on the form, but it also says within the provision of section 7(c) of the Export Administration Act, but subsequent to that a court has found out that it is not constitutional.

We are not getting into trade secrets. I do not like to get off on that, because I do not want that information. I think it is a tough area and I commend the gentleman for his leadership on this; but I am a little bit concerned and the gentleman from Florida has been a leader on this, too. I am concerned about putting a lid on all past information, just putting an arbitrary clamp on June 1980. That bothers me.

The CHAIRMAN. The time of the gentleman from Florida (Mr. FASCELL) has again expired.

(At the request of Mr. PREYER and by unanimous consent, Mr. FASCELL was allowed to proceed for 1 additional minute.)

Mr. PREYER. Mr. Chairman, if the gentleman will yield further, there is considerable confusion about the existing law in this area. This bill makes a specific exemption as to pending lawsuits. We do not try to clarify present law which frankly is so confused that I do not think we can ever come to grips with it. What the bill does do is set out the law clearly from June 30, 1980, on. The rights in the future, I think, will be well understood.

Mr. FASCELL. Mr. Chairman, one of the problems and the reason for the date is that the information asks names of customers and prices of goods which is and should be trade secrets. That is the problem and that is the reason for the cutoff.

Mr. QUAYLE. Mr. Chairman, would the gentleman yield, whoever has the time?

Mr. FASCELL. I yield to the gentleman.

Mr. QUAYLE. If price and value were taken out instead of parties having to name the country, would the gentleman change his mind as far as that information being released?

The CHAIRMAN. The time of the gentleman from Florida (Mr. FASCELL) has again expired.

(At the request of Mr. QUAYLE, and by unanimous consent, Mr. FASCELL was allowed to proceed for 30 additional seconds.)

Mr. FASCELL. Mr. Chairman, I think it generally is released.

Mr. QUAYLE. Not according to this amendment, I do not think so.

□ 1140

Mr. ALEXANDER. Mr. Chairman, I move to strike the requisite number of words.

(Mr. ALEXANDER asked and was given permission to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Chairman, I take this time to rise in support of the substitute offered by the gentleman from North Carolina (Mr. PREYER), and I do so as a member of the President's Export Council.

I wish to advise the Members present today that the President's Export Council met just yesterday and considered the problem which is raised by the amendment offered by the gentleman from California (Mr. DORNAN). If the amendment offered by the gentleman from California (Mr. DORNAN) were adopted, it would in effect immobilize the efforts of the President's Export Council to formulate an aggressive export policy that will enhance the position of this country to trade with foreign nations and with foreign customers.

The President's Export Council adopted unanimously a resolution to support the language offered by the gentleman from North Carolina (Mr. PREYER), which language is substantially the same as that contained in a Senate bill which has already been adopted.

Mr. Chairman, I urge my colleagues who are concerned about the formulation of an export policy to enhance the position of this country to trade with foreign nations to support the substitute offered by the gentleman from North Carolina (Mr. PREYER), and I do so as a spokesman for the President's Export Council which has adopted a resolution in support of that amendment.

Mr. Chairman, the Export Administration Act legislation is aimed at helping exporters eliminate unnecessary red-tape and confusion in obtaining export

licenses. The bill is a necessary first step in allowing Congress a role in developing a national export strategy.

However, the language of the original Export Administration Act is not sufficiently precise to meet the standards established by the Freedom of Information Act (FOIA) in protecting the confidentiality of the shipper export declarations (SED's).

At the time, litigation is pending to gain access to individual SED's under the Freedom of Information Act.

Mr. Chairman, it is important that exporters be allowed confidentiality on their SED's. The data disclosed on SED's includes confidential business information in which disclosure to competitors would be harmful. Foreign competitors would be especially benefited because they would not have similar vulnerability.

Under existing Federal law and regulations, exporters are required to file a SED for each merchandise shipment exported from the United States. The SED covers 20 items of information concerning the details of the particular export transaction. Among other things, a SED includes the name of the exporter, net quantity, value of the shipment, shipping weight, date exported, et cetera.

The confidentiality issue is not an attempt to skirt national security policy or the critical technology issue; it is an attempt to protect the integrity of the merchant-buyer relationship. If Census is to continue to receive information on a scale sufficient to the demands for statistical data, it must be widely perceived as treating all data it receives confidentially.

The United States needs to be protecting and encouraging the export of American goods and services, not hindering those companies trying to gain access to markets.

The Preyer amendment would retain confidentiality of SED's until June 30, 1980. In order that my colleagues can more fully understand the SED issue, the following prepared by the Caterpillar Tractor Co. should prove to be useful. The President's Export Council, of which I am a member, has also endorsed the confidentiality of SED's.

I urge my colleagues to support the Preyer amendment.

The material follows:

CATERPILLAR TRACTOR CO.,
Peoria, Ill.

EXPORT ADMINISTRATION ACT AND THE CONFIDENTIALITY ISSUE

SUMMARY

This memorandum states Caterpillar's concerns with the possible public release of Shipper's Export Declarations (SEDs), together with the company's views as to why the Export Administration Act should be amended to ensure that SEDs will remain confidential in the future.

Why We're Concerned. Caterpillar is a major exporter from the United States, with $2.2 billion in exports in 1978 (the second largest total of any U.S. company). Caterpillar has filed some 40,000 SEDs annually in recent years, and disposition of these documents—which contain important and detailed business information—is of vital concern to the company.

Recent court cases indicate that existing Export Administration Act (EAA) language authorizing the Secretary of Commerce to maintain confidentiality of SEDs may not be sufficiently precise to meet standards established by the Freedom of Information Act.

Exporters, such as Caterpillar, could be faced with the disclosure of valuable commercial information contained in SEDs, revelation of which would strengthen the position of competitor companies. All competitors, U.S. and foreign, could benefit from public disclosure of SEDs filed by Caterpillar. Caterpillar, of course, would also gain access to information about U.S. competitors. The big gainers, however, would be foreign competitors. They would gain valuable information about all U.S. exporters . . . while Caterpillar and other U.S. firms would have no access to comparable information about them.

Surely, no one intends this to be a result of either the Export Administration Act or the Freedom of Information Act. If U.S. export performance is to be strengthened, it is important to resolve the matter of SED confidentiality in a way that does not add still another burden to be borne by U.S. exporters alone. That's a matter for Congress, not the courts, to decide.

In the absence of appropriate legislative action, Caterpillar might still be able to fight disclosure of SEDs in the courts. However, such legal action would be expensive; it would consume the time of people who could better devote their efforts to expanding exports; and the outcome would still be uncertain. It is also possible that companies would be required to file suit or take other action on an individual basis to prevent release of their SEDs, which would impose a particular burden on smaller U.S. exporters for whom the regulatory maze is already a strong discouragement to exporting.

Conflict Between Freedom of Information Act and Export Administration Act. The Export Administration Act gives the Secretary of Commerce authority to require such reports as may be necessary or appropriate to the enforcement of the Act. For census and other purposes, the Commerce Department requires the filing of a Shipper's Export Declaration with each export shipment.

This document then becomes a piece of U.S. Government paper, subject to possible disclosure under the Freedom of Information Act (FOIA). The existing EAA authorizes the Secretary of Commerce to protect the confidentiality of business information obtained in reports, but courts have ruled that existing EAA language is not precise enough to meet certain FOIA standards. The issue at this point is whether the confidentiality directive should be maintained and clarified by revised EAA language which would bring it into line with FOIA standards.

What Does a Constitutional SED Conceal From the Public? Let's begin by considering what an SED is and isn't.

Each SED is a report from a single company about a single export transaction.

It is not an application for any kind of government action. It is not a document on the basis of which any kind of decision will be made.

It does become relevant when a substantial number of such documents have been collected; they then provide useful census-type information which may serve as the basis for policy studies or judgments.

But a single SED has on governmental purpose in ordinary usage . . . just as a census form for an individual household does not serve as the basis for governmental decisions, although information aggregated from such forms is important in many respects, such as apportioning seats in the House of Representatives among the states.

SEDs do reveal information about individual commercial transactions. A market analyst in possession of a number of SED's filed by a company could learn much about that company's customers, sales, pricing policies, business trends, dealer organization, replacement parts sales opportunities, and other information. Other companies with access to such information could use it to significant competitive advantage. They could more carefully target market development efforts, identify potential new customers, adjust production scheduling and inventories, adapt pricing strategies, and make countless other decisions on the basis of hard information—where as now they must make many such decisions on the basis of estimates or guesses.

A competitor, in business or politics, who knows everything you do, while you know much less about him/her, has a significant advantage.

Is the Whole SED Confidential? No. Clearly some information contained on the SED form is not confidential—the name of the exporting carrier, for example.

No single piece of information on the SED if released alone, would be confidential. What is special about the SED is the detailed picture it gives of a single transaction.

Some Information on SEDs is Already Available Elsewhere. Some information available in SEDs is also available to the public and press in other documents. Specifically, title 19 (customs duties) of the Code of Federal Regulations, sec. 103.11, specifies conditions under which information on vessel manifests may be disclosed to members of the press and to the public. Members of the public are permitted to obtain information from, but not to examine, vessel manifests.

Members of the press may examine vessel manifests, and copy and publish certain data. "Of the information and data appearing on outward manifests, only, the general character, destination, and quantity (or value) of the commodity, name of vessel, names of shippers,(*) and country of destination may be copied and published. Where the manifests show both quantity and value, either may be copied and published, but not both in any instance." (*Shippers may request that access to the name of a shipper be refused.)

Some argue that such existing availability of some of the information contained in SEDs is reason to make the SED publicly available, in whole or in part. That argument can be turned around: if much information is already available, why is more needed? Why put the U.S. Government in the effective position of telling the world more details about its exporters and their transactions than other governments do about theirs?

The "it's already available" argument also reveals, however, an important additional reason for maintaining the confidentiality of SEDs.

The press may now publish, from outward manifests:

General character of commodities.
Destination.
Quantity or value (but not both).
Country of destination.

It has been suggested that comparable information contained in SEDs be released, and that only a few key items in the SED need be kept confidential, such as the identity of consignees and the value of the shipment.

However, if the rest of the SED is available to the public or press, it would be an easy matter to match up information from such SEDs with published information—obtained from manifests—about the same shipment. Information common to the two documents (name of vessel, destination) could be used to match up the SED with a published report based on the manifest. Information on quantity could then be obtained from the SED; information on value of the same shipment could be copied from the manifest.

Combining two sources in this manner could provide nearly as complete a picture of an individual transaction as if the entire SED were released.

Two-part SED a Compromise Solution? A two-part SED has been proposed as a possible compromise. A precedent is found in the two-part form prescribed for boycott reports in another section of the EAA. We don't think this is a good solution.

First, it would inevitably add to the paperwork burden of filling out and filing SEDs. Caterpillar alone files over 40,000 such documents annually, and administrative inconvenience is a significant argument against complicating this form unless there is a compelling reason to do so. We simply don't need more governmental paperwork.

Second, the basic purpose of the boycott reports—cited as a precedent for the two-part form—is to gather information about boycott requests. Take away the confidential business information from the boycott report form, and the report still serves its basic purpose of indicating the nature and value of boycott requests received by U.S. exporters.

Take away the confidential business information from the SED, and nothing of importance is left. (It should also be noted that the SED calls for more detailed information. There is no reference anywhere in the boycott form to consignees, for example.)

Thus, we believe there is no valid reason for a two-part SED, and the entire document should remain confidential . . . just as entire Census Bureau documents remain confidential, even though telephone directors and many other publicly available documents repeat much of the information contained in a census form.

Public Enumeration of Confidential Items. If a specific enumeration of items which the Secretary of Commerce may hold confidential is to be included in the EAA, an appropriate list is contained in H.R. 4034 as reported by the Foreign Affairs Committee:

Parties to a transaction.
Type of good or technology being exported.
Destination.
End use.
Quantity.
Value or price.

For Caterpillar's purposes, "end use" could be dropped from this list. However, there may be other exporters for whom this is also a sensitive item.

In summary, we urge the Congress, in dealing with this matter, to avoid the following:

An SED that is subject to release in its entirety; and

An SED that is released in part and that can be matched up with other publicly available information about individual export transactions so as to provide a detailed picture of each transaction.

Both S. 737 and H.R. 4034 contain acceptable provisions on confidentiality, and Caterpillar supports enactment of either of these provisions, or some combination of them.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the substitute amendment.

Mr. Chairman, I want to say that the gentleman from California (Mr. DORNAN) has a good idea. I support and understand his objective, but I think it is better reached and more moderately and appropriately reached by the language worked out by the gentleman from North Carolina, Judge PREYER, who has worked on this matter very assiduously.

The Freedom of Information Act is one of the most important pieces of legislation that Congress has enacted in recent years. It stands as a monument to our belief in the idea that the people have a right to know what the Government is doing and what these corporations are doing.

I must view with concern, therefore, any legislation which tends to restrict the access of the public to information in the hands of their Government. I do not mean any criticism of the Committee on Foreign Affairs in saying that. They have fashioned a bill dealing with the very complex question of export controls, in which the section the gentleman from North Carolina seeks to amend is a minor part. And, as their report shows, they resisted an effort by the Department of Commerce to write a much broader exemption from the Freedom of Information Act into the bill.

I believe the language proposed in the substitute amendment offered by the gentleman from North Carolina (Mr. PREYER), the distinguished chairman of the Subcommittee on Government Information and Individual Rights, which watches over the Freedom of Information Act like a mother hen, presents a better, a more rational, a more reasonable, and a more rational, a more reasonable, and a more workable and feasible solution to the problem that is presented here.

The Preyer substitute would preserve the existing protections against the release of confidential information.

In fact, it would make very little difference in the way the information involved in export transactions is supposed to be handled now.

Mr. Chairman, if we are interested in preserving the integrity of the Freedom of Information Act, if we are interested in preserving the vitality of our corporations whose exports must be licensed, and the business which seek overseas they, then we ought to support the Preyer substitute.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the distinguished gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding.

Mr. Chairman, I, too, would like to protect the Freedom of Information Act, and I, too, am worried about our export trade.

I would like to call the attention of the Members of the House to the fact that our exports account for less than 7 percent of our GNP. In Germany their exports are 22 percent of their GNP; in Belgium they are 45 percent of their GNP. We are losing out in the export market. Companies are strangled by these restrictions.

Mr. Chairman, I think the bill is better than the Preyer amendment, but the Preyer amendment is better than the Dornan amendment. We are going to kill our export trade and our small businesses that are trying to get into it.

Mr. BROOKS. Mr. Chairman, I want to thank the gentlewoman from New Jersey (Mrs. FENWICK) for emphasizing the importance of the Preyer amendment.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, a great member of the committee.

Mr. QUAYLE. Mr. Chairman, I might correct the gentleman and say "a former great member."

Mr. BROOKS. A great former member of the Government Operations Committee.

Mr. QUAYLE. I wish I were still there.

Mr. Chairman, may I ask the gentleman, what information would be revealed under this substitute?

Mr. BROOKS. Not any more than is released now; not confidential business secrets.

Mr. QUAYLE. Would the countries that they are trading with be released, or would that be not reseased?

Mr. BROOKS. They would be.

Mr. QUAYLE. Mr. Chairman, that is what I am concerned about. I do not think, according to the substitute, that the countries would be released. I am concerned about that, plus putting the lid on by June 30, 1980. Those two things bother me.

The gentleman knows that I support him. I support him most of the time and follow his leadership, but on this, if I would follow his leadership, I would need a couple of clarifying statements on the subject.

Mr. BROOKS. Mr. Chairman, perhaps that could be found in the report. I think the gentleman understands report language.

Mr. QUAYLE. Mr. Chairman, I understand the importance and the integrity of report language that we so often refer to when we just do not want to put it in the bill.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman from California (Mr. LAGOMARSINO) should have his 5 minutes on the amendment, but after that I will ask unanimous consent that debate cease in 10 minutes.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I think the gentlewoman from New Jersey (Mrs. FENWICK) summed this up very well. The bill is better than the Preyer amendment, the Preyer amendment is better than the Dornan amendment, and I am not sure about what the Quayle amendment does, if the gentleman ever offers it.

I think what we did in the bill, which represents a compromise in and of itself, is a pretty good solution to a very difficult problem. The Department of Commerce and the exporting industry had asked us to clarify the law and in effect to reverse court decisions.

What we did instead is this: we turned down that request. I thought, frankly, we should go along with that request and change the law completely, but the committee disagreed. They felt it would not be wise to grant that request, and it is the committee's intent in this provision to meet the requirements of the Freedom of Information Act by specifying the

particular types of matters which may be withheld from disclosure.

Section 114 of the bill we are discussing here—

Further provides, however, That this provision shall not be construed to require the withholding of any type of information which, immediately before the effective date of these amendments, is not being withheld from disclosure.

This language which is in the report, continues:

The committee specifically intends that the information currently published in the daily list of export licenses granted—that is, the type of commodity, value of the transaction, and country of destination—shall continue to be made available to the public.

I think it is important to point out that the language in the bill is strongly supported by the export industry. They feel that not to do this is going to affect their ability to compete with other countries and with each other. I say that the confidentiality provision in this bill does not conflict with the principles of the Freedom of Information Act.

□ 1150

It is quite specific, as required by FOIA, and it does not prevent disclosure of Government information but, rather, prevents publication of data submitted by business as a function of exporting, data which the Government does not have for domestic sales, as a matter of fact.

The Government is not precluded from publishing statistical information, and protecting confidentiality of information can be critical for the success of a business in a particular deal.

The information, if published, would enable foreign and domestic competitors to gain significant advantages in the same markets. It has always been public policy to insure confidentiality of competitive business information. For example, custom import declarations are confidential. IRS returns are not published. Domestic production and pricing statistics are not published when there are only one or two producers.

If Government requires business to supply confidential information, then Government should provide protection for that information.

As the Members will note from the language of the bill itself, there is absolutely no intention to restrict this information from being made available to Congress. As a matter of fact, we strengthen the provisions requiring that this information be furnished to Congress itself.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Maryland has become interested in this because of his acquaintance with M. Stanton Evans, one of the plaintiffs in the suit seeking from Commerce information that has been withheld.

My study of this question seems to run totally contrary to what the gentleman has said and, in fact, Commerce is not allowing the information out that the courts in one instance have already ruled they must allow, and that this bill and the Preyer amendment, which is almost the same as this bill, will ratify Commerce's refusal to reveal this information about strategic materials and processes being shipped to unfriendly nations.

Somewhere in all of this no one has hardly mentioned the fact that this overturns a court decision and severely restricts the Freedom of Information Act. I cannot understand why that is in the best interest of this country.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I would like to concur in the remarks made by the gentleman from California and the gentlewoman from New Jersey. I would like to remind this body that we are standing here with a $30 billion trade deficit from last year. We are trying to expand exports. We are not doing a very good job of it.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. LAGOMARSINO) has expired.

(By unanimous consent, Mr. LAGOMARSINO was allowed to proceed for 2 additional minutes.)

Mr. LAGOMARSINO. Mr. Chairman, I continue to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, what we are trying to do as a national policy is to expand exports. What we are doing in our amendments to the Export Administration Act on this floor is to try to limit exports. The amendment offered by the gentleman from California is an amendment intended to harass all potential exporters who will not now export because they have to produce a whole bunch of information that will become available to the world. The amendment offered by the gentleman from North Carolina is the same thing, only not quite as bad.

We need to stimulate exports. We have to tell American businessmen to get out and work harder, not be more confused and more depressed by the kind of limitations that we are putting on here. It is simply a question of whether you want to export or whether you do not. If you want to have all of this extra information spread out and demanded of our producers, they simply will not export.

Mr. Chairman, I think all of the amendments should be defeated.

Mr. LAGOMARSINO. Mr. Chairman, I want to make an additional comment.

The gentleman from Maryland made a statement about the effect this would have on existing litigation. Section 123 of this act, page 62, provides:

This Act and the amendments made by this Act shall not affect any investigation, suit, action, or other judicial proceeding commenced under the Export Administration Act . . .

So we have exempted existing suits.

I would like to conclude by reading to the Members one sentence from a telegram on this subject from Caterpillar Tractor Co., one of the largest exporters in this country, just one paragraph. I will put the telegram in the RECORD in its entirety.

Caterpillar has always complied willingly with Commerce Department requests for SED's and other documents, relying on the promise of confidentiality contained in the EAA and printed on each copy of the SED form. (SED's are shippers export declarations.)

The complete text of the telegram is as follows:

CATERPILLAR TRACTOR CO.,
May 1, 1979.

Hon. ROBERT J. LAGOMARSINO,
House of Representatives,
Washington, D.C.

We want to invite your attention to a serious problem that has arisen with regard to the Export Administration Act (EAA). It's a matter we believe deserves urgent consideration when the Foreign Affairs Committee meets to mark up H.R. 3652, a bill to extend and amend the EAA.

At issue is treatment of confidential business information submitted to the Department of Commerce. Under the authority of the EAA, the Commerce Department requires exporters to provide considerable information about export transactions.

Caterpillar's most serious concern is with shippers' export declarations (SED's). A copy of this document must be filed for each export shipment. Caterpillar is a major U.S. exporter. In 1978 alone Caterpillar filed SEDs for approximately 19,635 surface shipments. In addition, Caterpillar made 22,542 air shipments in 1978, most of which required the filing of SEDs. (Caterpillar exports amounted to some $2.2 billion in 1978, and provided jobs for 25,000 of Caterpillar's U.S. employees.)

The prescribed SED form requires shippers to provide detailed information about the consignee, items being exported, quantity, and value. Such information is of considerable commercial value. In the hands of competitors, it would provide important market intelligence about Caterpillar's customers, sales of specific products, pricing policies—knowledge of which could help competitors identify promising sales targets, focus sales efforts for competitive replacement parts, develop pricing strategies—all to the competitive disadvantage of Caterpillar.

Such commercial intelligence would be of great value to both foreign and domestic competitors. However, the greatest advantage would be to foreign competitors, who would be able to gather data about all U.S. exporters without expending the tremendous amount of time, effort, and money that would be required to obtain this information in other ways.

Caterpillar has always complied willingly with Commerce Department requests for SEDs and other documents. Relying on the promise of confidentiality contained in the EAA and printed on each copy of the SED form.

Now, however, the Commerce Department's ability to maintain confidentiality of this information is being challenged in court suits, which are based on a claim that section 7(C) of the present EAA does not meet certain standards for an exemption under the Freedom of Information Act. One of these suits would force the Commerce Department to disclose all information contained in SEDs. The potential competitive harm to Caterpillar, should SEDs be disclosed, is substantial.

We urge you to face this issue squarely and to resolve the conflict between the Freedom of Information Act and the Export Administration Act in a manner that will not harm U.S. exporters, either individually or as a group. If Congress fails to amend the EAA, courts may force disclosure of information of considerable commercial and marketing value, particularly to foreign compet-

itors. Meanwhile, U.S. companies will have no offsetting access to comparable information from foreign competitors. Their governments, aware of the value of commercial and marketing intelligence, do not require such disclosure.

There is growing recognition, prompted by concern over the large U.S. trade deficit, that the needs of U.S. exporters have too often been given inadequate attention. We hope that won't happen in this instance.

What should be done? A provision is needed in the EAA that conclusively provides for the protection of confidential information submitted to the Commerce Department under the EAA.

There is now a conflict between the Freedom of Information Act and the EAA, and as an unintended result, the U.S. Commerce Department could in effect be forced to help overseas companies compete more effectively against U.S. exporters through release of SED information. We do not believe Congress intended to undermine the competitive position of U.S. companies in this manner. We urge you to amend the EAA to eliminate this problem.

DONALD R. NIEMI,
Governmental Affairs.

Mr. PREYER. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from North Carolina.

Mr. PREYER. Mr. Chairman, I would like to just reply to the comments of the gentleman from Minnesota.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. LAGOMARSINO) has expired.

Mr. PREYER. Mr. Chairman, I ask uanimous consent that the gentleman be allowed to proceed for 1 additional minute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. VOLKMER. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto cease in 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. QUAYLE. Mr. Chairman, reserving the right to objection, I hope that the gentleman would not insist on his 10-minute limitation to this colloquy. I do have a perfecting amendment to the Dornan amendment. After the expiration of my time on that amendment, then I would not object to limitation of time. So I would hope that I could convince the gentleman to withdraw his unanimous consent request.

Let me offer and explain my amendment, and then if the gentleman wants to ask for a 10- or 15-minute limitation, I would not object at that time.

Mr. BINGHAM. If the gentleman will yield, the gentleman will have to make his peace with the gentleman from California (Mr. DANNEMEYER), because his time is being cut down by every additional minute we spend on this amendment.

The CHAIRMAN pro tempore. Does the gentleman from New York (Mr. BINGHAM) withdraw his unanimous consent request?

Mr. BINGHAM. Mr. Chairman, I withdraw my unanimous consent request.

AMENDMENT OFFERED BY MR. QUAYLE TO THE AMENDMENT OFFERED BY MR. DORNAN

Mr. QUAYLE. Mr. Chairman, I offer an amendment to the Dornan amendment.

The Clerk read as follows:

Amendment offered by Mr. QUAYLE to the amendment offered by Mr. DORNAN: On line 3 of the amendment strike all after the word "following" and insert the following:

(1) in the first sentence by striking out "is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information" and inserting in lieu thereof "would reveal the countries of the parties to an export or re-export transaction, the type of good or technology being exported or re-exported, or the destination, end use, quantity, value, or price of such good or technology for a period of six months after issuance or denial of an export license or granting or denial of re-export authorization (after which this information, with the exception of value or price of such good or technology, will be available pursuant to section 552 of Title 5, United States Code)"; and

(2) by striking out the last two sentences and inserting in lieu thereof the following: "Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest."

Redesignate the following sections accordingly.

Mr. QUAYLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. QUAYLE. Mr. Chairman, this amendment is basically a compromise between what the gentleman from California (Mr. DORNAN) and the gentleman from North Carolina (Mr. PREYER) are trying to do. Let me tell the Members what this amendment does.

It does not release any information during the licensing process. I do not think that it is appropriate to release this type of information during the process, during the ongoing negotiations, but I do want some information—revealed to the public, if the public wants it, 6 months after the export license is granted.

I realize that it is a very delicate thing to balance what is in fact a trade secret, what should be confidential and what should be the people's right to know. That is not an easy question to answer. In this amendment there are a couple of things that are taken out that are now in the bill. One of those things, we do not ask for the parties involved. We do ask for the countries of the parties. So the businesses cannot complain that you are going to give them the list of their parties. Only the countries.

This amendment also takes out the price and the value. I happen to think that that should be confidential, and we do not want our businesses subject to have the other businesses go in and try to find out how much it is going to cost or what the value was in trading an item. So the only thing that would be revealed would be the countries of the parties, the type of goods or technology, the destination, the end use, and the quantity. That is reasonable, to compromise. And I want to point out that this information would not be released until 6 months after the fact—6 months after the fact.

The problem I have with my good friend—and the gentleman knows that I have utmost respect for his leadership in this area, having served on his committee, his judiciousness and fairness, not only in this, but in everything—the problem I have with the substitute or his amendment is the fact that you put an arbitrary blanket clamp on any information until June 30, 1980. Nothing could be released. And then after that, I do not even know what could be released. So this spells out a compromise, a compromise instead of asking for the parties, we have put in the countries, I have compromised that we will not ask for the value or the price. I will say to those Members who are concerned about hurting exports that we ought to cut out some of the paperwork that they have to file with the Government in the first place. If that is a concern, cut some of the redtape; but do not cut back the people's right to know. And they do have a right to know. I realize that it is delicate, it is a tough situation, but I think this compromise language will get to the heart of the matter and I hope the amendment is accepted.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. QUAYLE. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I want to say to the gentleman that we have seen the Preyer amendment characterized as a compromise. It is no compromise at all. It is a cosmetic change in the bill's language which in fact restricts the public's right to know, and we do have to balance the rights of exporters against the damage done to this country by trading in strategic processes, materials and products with Communist nations which use them to build up their military establishment against us. These are the issues that are being balanced here. The gentleman's amendment is a true compromise. It does protect the rights of business exporters and at the same time the equally and even more important right of the American people to know that their Government will not permit to fall into the hands of our enemies, secrets and processes and products that should not be there.

Mr. Chairman, I commend the gentleman for offering his amendment.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. QUAYLE. I yield to the gentleman from California.

Mr. DORNAN. I thank the gentleman for yielding.

Mr. Chairman, because we are all trying to be conciliatory here, I hate to be political; but I will put my Chamber of Commerce rating or yours up against anybody who has spoken against my amendment or the gentleman's perfecting amendment, which I accept, against any Member who has spoken against us on this side of the aisle or that side of the aisle.

We are the defenders of free enterprise. I want to give American business the right and the freedom to export all over the world. But what Mr. Stan Evans, the distinguished citizen from the gentleman's State is trying to find out are the ugly secrets involved with the Kama River problem, that massive truck factory.

□ 1200

Those trucks will be carrying soldiers to kill people in Israel soon. That is why the American-Jewish Congress Against Kreps has a case this so-called substitute amendment would cut. We would change current cases and change current law by this cutting amendment of the distinguished gentleman from North Carolina.

I accept the criticism of the distinguished gentleman from Florida to put a 6-month limit on this and keep prices secret, but not to put everything under wraps until 1980.

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto cease in 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. Members standing at the time the unanimous-consent request was agreed to will be recognized for 45 seconds each.

The Chair recognizes the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Chairman, let me make clear that there is no compromise involved in the Quayle amendment as between the Dornan amendment and the Preyer amendment. The key thing we are losing sight of is there is a difference between licensing information and export information.

My amendment goes to export information. It carries out the policy established by William Simon, the former Secretary of the Treasury. It carries out the policy in effect at the Treasury Department right now.

It is simply being avoided by some shippers, mostly on the west coast, who remove or destroy the bill of lading. This prevents the routine disclosure of export information.

Mr. Simon is hardly a man who would harass business. As far as licensing information, the Dornan amendment and the Quayle amendment would reveal business information not now revealed. That is harassing business. That is the amendment the Members ought to be against.

The statements of the gentleman from Minnesota and the gentlewoman from New Jersey are directed at the licensing information that would be revealed. The disclosure of export information is already our policy.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. LAGOMARSINO).

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I think we should clarify exactly what we are doing here. I think that the language in the bill, as explained in the committee report which I referred to earlier, solves the problem to the satisfaction of industry and the people in the Department of Commerce. As far as strategic information, that does not have to be released now, as provided for by the Freedom of Information Act.

All of this information—and this is confirmed by and fortified in the bill—has to be furnished to Congress, and certainly we are capable of exercising oversight. I am sure that this subcommittee is going to continue to do that.

The CHAIRMAN pro tempore. The gentleman from California (Mr. DORNAN) is recognized.

Mr. DORNAN. Although the Foreign Affairs Committee report states that they turn down the administration request to exempt from the FOIA all information obtained from exporters under this act by receiving the types of information which could be withheld, the bill, in effect, grants a complete exemption.

The following information is exempt: Parties, type of goods or technology being exported, destination, end use, quantity—what else is there?

I wish every Member of this House could read the brief of the American-Jewish Congress against Kreps legal case to understand better exactly what we are talking about here.

If there are further refinements needed, let us get at them next year, but something has to be done now before we find ourselves facing Armageddon with our own high technology coming back at us in a totalitarian blitzkrieg.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

(Mr. BAUMAN asked and was given permission to revise and extend his remarks.)

[Mr. BAUMAN addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

(By unanimous consent, Mr. BAUMAN yielded the balance of his time to Mr. QUAYLE).

(By unanimous consent, Mr. ANDREWS of North Carolina and Mr. FASCELL yielded their time to Mr. PREYER.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Chairman, if I might finish up the argument I was making earlier, those who say the Preyer amendment is another amendment harassing business do not understand that this is a procompetitive amendment.

The more information that carriers, warehousemen, insurance people, and others who deal with the shipping industry, the more information they have, the more competitive they are, the more they can reduce prices, the more our shipping is competitive around the world.

The Dornan amendment is a broad-sweeping, new step in our policy. It adopts an open-door policy on information which is collected during the licensing process, information as sensitive as market shares, for example.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Chairman, there is a good bit of complication involved in this, far too much to discuss in 45 seconds, but I wish everyone who has spoken so eloquently on this subject today had studied the difference between the two different sections of the law involved and the two types of information to which we are directing our attention; the shippers export declaration is one thing, an export license application is another.

Either leave the bill as it is or support the Preyer amendment, but let us not go overboard with either of the alternatives that are presented with this and put more roadblocks in the way of developing exports for our Nation.

We are going far too far in an unnecessary way, I believe, with the amendment of the gentleman from California.

The gentleman from Indiana has sought to improve upon it, but we still are talking about two different things and not that involved in the Jewish Congress litigation.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, I owe the gentleman from North Carolina (Mr. PREYER) an apology. I was a little overenthusiastic in describing his amendment. His description of it is accurate. Mine was overstated. It is an enormous improvement over the Dornan amendment.

The Quayle amendment should be defeated. It does not make the Dornan amendment much more palatable.

The Dornan amendment should be defeated.

If the Preyer amendment is accepted, I guess it will not do too much damage; but, Mr. Chairman, there is nothing wrong with the language in the committee bill. That section was well written by the committee. That language is my first choice.

The best option for all of us is to defeat all of the amendments. We are trying to improve our balance of trade. We are trying to improve the value of the dollar by reversing our persistent trade deficits. We want to enhance export development from this country.

We can no longer tolerate the huge deficit. The best way to encourage exports is to leave the law as it is. Support the Preyer amendment to the Dornan amendment, and then reject the Preyer amendment as amended.

That is the best way to encourage American firms, especially small firms, to develop export potential.

(By unanimous consent, Mr. VOLKMER yielded his time to Mr. BINGHAM.)

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

(Mr. ZABLOCKI asked and was given permission to revise and extend his remarks.)

Mr. ZABLOCKI. Mr. Chairman, the Subcommittee on International Economic Policy of the Committee on Foreign Affairs, after holding extensive hearings, gave serious consideration to the confidentiality provisions that are contained in this bill. The committee bill solves the existing problem of the court having ruled that the confidentiality provision of the Export Administration Act do not meet the requirements of the Freedom of Information Act. The bill specifies what information should be held confidential.

I urge the members of the committee to support the House version. If they see some concern, certainly the Preyer substitute is far preferable to the Dornan amendment, even if it is modified by the Quayle amendment.

I hope the Members will support the committee.

□ 1210

The CHAIRMAN. The Chair recognizes the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, we have heard about trucks and we know about trucks. Trucks can be made not only in France by Renault, in Italy by Fiat, in Germany by Volkswagen, but also they can be made in Czechoslovakia, and every bus in the Soviet Union is made in Czechoslovakia. Why do we get so many of these contracts despite the competition and the harassment? Because some of the big companies are able to deal with the roadblocks that are put in the way. The smaller companies cannot.

We imported over $106 billion of manufactured goods last year and we exported only $91 billion, and these restrictions are part of the problem. What part of the public is interested in the price and quantity of what has been sold? Competitors. Congress has a right to know if we are concerned about security, but not competitors.

(By unanimous consent, Mr. DANNEMEYER yielded his time to Mr. QUAYLE.)

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. QUAYLE).

Mr. QUAYLE. Mr. Chairman, let me just put in perspective what we have here. We have the Dornan amendment which goes back basically to the law we have today. There are people that are concerned about the law. Bill Simon is concerned, the gentleman from North Carolina (Mr. PREYER) is concerned about it and I am concerned about it.

Next we have the Preyer amendment to the Dornan amendment, which puts a cap on all information that is given to the Department of Commerce concerning exports to June 30, 1980, it puts a lid on it.

I want to direct myself to what is a compromise beteween those two things. We are not after licensing information, we are not after information during the process, we are concerned and interested about historical data. That is why the Quayle amendment says any of this information will not be released until 6 months after the fact.

I do not like to see us get into arguments about whether it is a pro-Soviet or anti-Soviet or proexport or antiexport matter, because what we are talking about here is what kind of a balance we are going to strike between what the people have a right to know and what business has a right to be kept confidential. I want to reiterate that in the Freedom of Information Act today trade secrets are protected. There is no doubt about it. Trade secrets are protected. We are not interested in that.

What my amendment does is to compromise what the Dornan and Preyer amendment goes to, and that is after 6 months we will release information. We will not release parties. Business came to us and said we do not want to give you our list of clients. OK, we will release the countries of the parties.

We will not release price, because that should be kept confidential, and we will not release value.

That is a compromise and it is a compromise from the original version. I think it is a step in the right direction to balance off this thing on the right to know and the right to protect confidentiality.

I must also say as we get into this, and I am sure the gentleman from North Carolina, who has been very active in this area knows, we will take it up under the Freedom of Information Act itself to try to clarify what is a trade secret and what is not a trade secret. This is sort of a piecemeal approach to put this in now. I think the Members ought to support the Quayle amendment which is a balance.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Thank you, Mr. Chairman.

My amendment is consistent with the committee bill as far as export licensing goes. I agree with him absolutely, to pass the Dornan amendment or the Quayle amendment would open up business to great harassment.

Why do we need my amendment at all then? Simply because some shippers are frustrating what is our announced policy in this country about export information. Some West Coast shippers are avoiding that policy, what William Simon said our policy was on information, by tearing the bill of lading off the shipping documents or by mutilating it. My amendment simply provides that all export information will be treated the same all over the country.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, first of all, very briefly on the subject of the interests of the American Jewish Congress, the American Jewish Congress has no objection to the committee bill. Their legitimate problem dealt with the past. There is no quarrel with what we are trying to do here.

As far as the choice between the Preyer substitute and the Dornan amendment is concerned, I think the arguments are overwhelming in favor of the Preyer substitute, and I hope the Preyer substitute will be adopted.

As far as the Quayle amendment to the Dornan amendment is concerned, it is probably an improvement, and in any event, Mr. DORNAN himself has accepted it, so I think that can go on a voice vote.

I would still prefer the committee bill to the Preyer amendment, but mildly, and if the Preyer substitute is adopted, and I assume we will have a record vote on that, I will not ask for a record vote on the final adoption of the Preyer substitute.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. QUAYLE) to the amendment offered by the gentleman from California (Mr. DORNAN).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. PREYER) as a substitute for the amendment offered by the gentleman from California (Mr. DORNAN), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Does the gentleman from Maryland press his point of order?

Mr. BAUMAN. Mr. Chairman, I do.

The CHAIRMAN. Did the gentleman from Maryland press the point of order or withdraw the point of order?

Mr. BAUMAN. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The gentleman from Maryland (Mr. BAUMAN) withdraws his point of order of no quorum.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Maryland (Mr. BAUMAN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 318, noes 29, not voting 87, as follows:

[Roll No. 499]

AYES—318

Abdnor	Beard, R.I.	Brooks
Akaka	Beard, Tenn.	Broomfield
Albosta	Bedell	Brown, Calif.
Alexander	Bellenson	Buchanan
Ambro	Benjamin	Burgener
Anderson, Calif.	Bennett	Burlison
Andrews, N.C.	Bereuter	Burton, John
Andrews, N. Dak.	Bevill	Byron
Annunzio	Bingham	Campbell
Anthony	Blanchard	Carr
Applegate	Boggs	Cavanaugh
Archer	Boland	Cheney
Ashley	Bolling	Chisholm
Aspin	Boner	Clay
Atkinson	Bonior	Clinger
Bailey	Bonker	Coelho
Baldus	Bouquard	Coleman
Barnard	Bowen	Conable
Barnes	Brademas	Conte
	Brinkley	Corcoran
	Brodhead	Corman

Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hance
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hinson
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stark
Steed
Stewart
Stockman
Stokes
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Bob
Wilson, Tex.
Wirth
Wright
Wylie
Yates
Yatron
Young, Alaska
Zablocki

NOES—29

Ashbrook
Bafalis
Bauman
Bethune
Carney
Collins, Tex.
Crane, Daniel
Crane, Philip
Dornan
Gilman
Hammer-schmidt
Hansen
Ichord
Kelly
Kemp
Livingston
Lujan
McDonald
Miller, Ohio
Quayle
Quillen
Rudd
Satterfield
Schulze
Solomon
Stratton
Stump
Wyatt
Young, Fla.

NOT VOTING—87

Addabbo
Anderson, Ill.
AuCoin
Badham
Biaggi
Breaux
Brown, Ohio
Broyhill
Burton, Phillip
Butler
Carter
Chappell
Clausen
Cleveland
Collins, Ill.
Conyers
Cotter
Coughlin
Daschle
Davis, S.C.
de la Garza
Dellums
Diggs
Dixon
Dougherty
Downey
Duncan, Oreg.
Early
Edwards, Ala
Edwards, Calif.
Edwards, Okla.
Fazio
Flood
Foley
Ford, Mich.
Gaydos
Gibbons
Hall, Tex.
Hanley
Hightower
Holland
Hollenbeck
Jacobs
Johnson, Colo.
Kogovsek
Leath, Tex.
Lee
Lewis
McEwen
Marriott
Mathis
Moffett
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Oakar
Pashayan
Paul
Pepper
Pickle
Pursell
Richmond
Rodino
Rose
Rosenthal
Rousselot
Runnels
Santini
Sawyer
Sebelius
Simon
Stanton
Stenholm
Symms
Taylor
Treen
Ullman
Wampler
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Winn
Wolff
Wolpe
Wydler
Young, Mo.
Zeferetti

□ 1230

Messrs. SATTERFIELD, STRATTON, SOLOMON, LIVINGSTON, and COLLINS of Texas changed their votes from "aye" to "no."

So the amendment offered as a substitute for the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DORNAN), as amended.

The amendment, as amended, was agreed to.

The Clerk will read.

The Clerk read as follows:

REPORT TO CONGRESS

SEC. 115. Section 14 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended to read as follows:

"ANNUAL REPORT

"SEC. 14. Not later than December 31 of each year, the Secretary shall submit to the Congress a report on the administration of this Act during the preceding fiscal year. All agencies shall cooperate fully with the Secretary in providing information for such report. Such report shall include detailed information with respect to—

"(1) the implementation of the policies set forth in section 3;

"(2) general licensing activities under sections 5, 6, and 7;

"(3) actions taken in compliance with section 5(c)(3);

"(4) changes in categories of items under export control referred to in section 5(e);

"(5) the operation of the indexing system under section 5(g);

"(6) determinations of foreign availability made under section 5(f), the criteria used to make such determinations, the removal of any export controls under such section, and any evidence demonstrating a need to impose export controls for national security purposes notwithstanding foreign availability;

"(7) consultations with the technical advisory committees established pursuant to section 5(h), the use made of the advice rendered by such committees, and the contributions of such committees toward implementing the policies set forth in this Act;

"(8) changes in policies toward individual countries under section 5(b);

"(9) actions taken to cary out section 5(d);

"(10) the effectiveness of export controls imposed under section 6 in furthering the foreign policy of the United States;

"(11) the implementation of section 8;

"(12) export controls and monitoring under section 7;

"(13) organizational and procedural changes undertaken to increase the efficiency of the export licensing process and to fulfill the requirements of section 10, including an analysis of the time required to process license applications and an accounting of appeals received, court orders issued, and actions taken pursuant thereto under subsection (1) of such section; and

"(14) violations under section 11 and enforcement activities under section 12.".

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 115 be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. Are there amendments to section 115?

If not, the Clerk will read.

The Clerk read as follows:

RULES AND REGULATIONS

SEC. 116. The Export Administration Act of 1969 is amended by inserting after section 14, as redesignated by section 104(a) of this Act, the following new section:

"REGULATORY AUTHORITY

"SEC. 15. The President and the Secretary may issue such rules and regulations as are necessary to carry out the provisions of this Act. Any such rules or regulations issued to carry out the provisions of section 5(a), 6(a), 7(a), or 8(b) may apply to the financing, transporting, or other servicing of exports and the participation therein by any person.".

The CHAIRMAN pro tempore. Are there amendments to section 116?

If not, the Clerk will read.

The Clerk read as follows:

DEFINITION

SEC. 117. Section 16 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended—

(1) in paragraph (1) by striking out "and" after the semicolon;

(2) in paragraph (2) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(3) the term 'Secretary' means the Secretary of Commerce.".

EFFECT ON OTHER ACTS

SEC. 118. (a) Section 17 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended in subsection (b) by striking out "section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934)" and inserting in lieu thereof "section 38 of the Arms Export Control Act (22 U.S.C. 2778)".

(b) Effective October 1, 1979, the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611–1613d) is superseded.

AUTHORIZATION OF APPROPRIATIONS

SEC. 119. Section 18 of the Export Administration Act of 1969, as redesignated by sec-

tion 104(a) of this Act, is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 18. (a) REQUIREMENT OF AUTHORIZING LEGISLATION.—Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act unless previously and specifically authorized by law.

"(b) AUTHORIZATION.—(1) There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act $7,070,000 for the fiscal year 1980 and $7,777,000 for the fiscal year 1981 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs).

"(2) Of the funds appropriated to the Department of State for the fiscal year 1980, the Secretary of State may use such amounts as may be necessary to carry out the provisions of section 5(k) of this Act.".

TERMINATION DATE

SEC. 120. Section 20 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended by striking out "1979" and inserting in lieu thereof "1983".

TECHNICAL AMENDMENTS

SEC. 121. (a) For purposes of this section, an amendment which is expressed in terms of an amendment to a section or other provision, shall be considered to be a section, as redesignated by section 104(a) of this Act, or other provision of the Export Administration Act of 1969.

(b) Section 7 is amended—

(1) in the section heading by striking out "AUTHORITY" and inserting in lieu thereof "OTHER CONTROLS";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting "(2)(C)" immediately after "section 3" the first time it appears,

(ii) by striking out "articles, materials, or supplies, including technical data on any other information," and inserting in lieu thereof "goods",

(iii) by striking out "articles, materials, or supplies" and inserting in lieu thereof "goods", and

(iv) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(B) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy stated in section 3(2)(C) of this Act, the Secretary shall include in a notice published in the Federal Register with respect to such restrictions an invitation to all interested parties to submit written comments within fifteen days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking out "(A)" and inserting in lieu thereof "(C)",

(ii) by striking out "of Commerce",

(iii) by striking out "7(c)" and inserting in lieu thereof "12(c)", and

(iv) by striking out "article, material, or supply" and inserting in lieu thereof "goods";

(B) in paragraph (2) by striking out "each article, material, or supply" and inserting in lieu thereof "any goods"; and

(C) by adding at the end thereof the following new paragraph:

"(3) The Secretary shall consult with the Secretary of Energy to determine whether monitoring under this subsection is warranted with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.";

(4) in subsection (f)—

(A) in paragraph (1) by striking out "(B) or (C)" and inserting in lieu thereof "(A) or (B)";

(B) in paragraph (2)—

(i) by striking out "of Commerce" each place it appears, and

(ii) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(C) in paragraph (3) by striking out "clause (A) or (B) of paragraph (2)" and inserting in lieu thereof "paragraph (2)(C)";

(5) in subsection (i) by striking out "(A)" and inserting in lieu thereof "(C)";

(6) in subsection (j)—

(A) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(B) by striking out "of Commerce" each place it appears; and

(7) by striking out subsections (a), (d), (e), (g), (h), and (k), and redesignating subsections (b), (c), (f), (i), (j), (l), subsection (m), as added by section 6(d)(2) of the International Security Assistance Act of 1978, and subsection (n), as added by section 109 of this Act, as subsections (a), (b), (c), (d), (e), (f), (g), and (h), respectively.

(c) Section 8 is amended—

(1) in paragraphs (1)(D) and (5) of subsection (a) by striking out "of Commerce"; and

(2) in subsection (b)—

(A) in paragraph (1) by striking out "4(b)" and inserting in lieu thereof "6(a)"; and

(B) in paragraph (2) by striking out "of Commerce" each place it appears.

(d) Section 9 is amended—

(1) by striking out "of Commerce" each place it appears; and

(2) by striking out "commodity" each place it appears and inserting in lieu thereof "good".

(e) Subsection (c)(2) of section 11 is amended by striking out "4A" each place it appears and inserting in lieu thereof "8".

(f) Section 12 is amended—

(1) in subsection (b) by striking out "the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46)" and inserting in lieu thereof "section 6002 of title 18, United States Code";

(2) in subsection (c)—

(A) by striking out "4A" and inserting in lieu thereof "8";

(B) by striking out "6" and inserting in lieu thereof "11"; and

(C) by striking out "section 4(b)" and inserting in lieu thereof "this Act";

(3) in subsection (d)—

(A) by striking out "quarterly"; and

(B) by striking out "10" and inserting in lieu thereof "14"; and

(4) in subsection (e)—

(A) by striking out "of Commerce";

(B) by striking out "(c)" and inserting in lieu thereof "(h)";

(C) by striking out "articles, materials, and supplies" and inserting in lieu thereof "goods and technology"; and

(D) by striking out the last two sentences and inserting in lieu thereof the following: "The Secretary shall include, in the annual report required by section 14 of this Act, actions taken on the basis of such review to simplify such rules and regulations.".

(g) Section 13 is amended by striking out "6" and inserting in lieu thereof "11".

TECHNICAL AMENDMENTS TO OTHER ACTS

SEC. 122. (a) Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) is amended by striking out "sections 6 (c), (d), (e), and (f) and 7 (a) and (c) of the Export Administration Act of 1969" and inserting in lieu thereof "subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1969, and by subsections (a) and (c) of section 12 of such Act".

(b)(1) Section 103(c) of the Energy Policy and Conservation Act (42 U.S.C. 6212(c)) is amended by striking out "(A)" each place it appears and inserting in lieu thereof "(C)".

(2) Section 254(e)(3) of such Act (42 U.S.C. 6274(e)(3)) is amended—

(A) by striking out "7" and inserting in lieu thereof "12"; and

(B) by striking out "(50 App. U.S.C. 2406".

(c) Section 993(c)(2)(D) of the Internal Revenue Code of 1954 (26 U.S.C. 993(c)(2)(D)) is amended—

(1) by striking out "4(b)" and inserting in lieu thereof "7(a)";

(2) by striking out "(50 U.S.C. App. 2403(b))"; and

(3) by striking out "(A)" and inserting in lieu thereof "(C)".

SAVINGS PROVISIONS

SEC. 123. (a) All delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under the Export Control Act of 1949 or the Export Administration Act of 1969 and which are in effect at the time this Act takes effect shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act or the amendments made by this Act.

(b) This Act and the amendments made by this Act shall not apply to any administrative proceedings commenced or any application for a license made, under the Export Administration Act of 1969, which is pending at the time this Act takes effect.

(c) This Act and the amendments made by this Act shall not affect any investigation, suit, action, or other judicial proceeding commenced under the Export Administration Act of 1969, or under section 552 of title 5, United States Code, which is pending at the time this Act takes effect; but such investigation, suit, action, or proceeding shall be continued as if this Act had not been enacted.

EFFECTIVE DATE

SEC. 124. (a) Except as provided in subsection (b), this title and the amendments made by this title shall take effect on October 1, 1979.

(b) The amendments made by sections 107 and 108 of this Act shall take effect on the date of enactment of this Act.

TITLE II—INTERNATIONAL INVESTMENT SURVEY ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Section 9 of the International Investment Survey Act of 1976 (90 Stat. 2059) is amended to read as follows:

"SEC. 9. To carry out this Act, there are authorized to be appropriated $4,400,000 for the fiscal year ending September 30, 1980, and $4,500,000 for the fiscal year ending September 30, 1981.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York (Mr. BINGHAM)?

There was no objection.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio: Page 63, immediately after line 6, insert the following new section:

DIVERSION TO MILITARY USE OF CONTROLLED GOODS OR TECHNOLOGY

SEC. 127. Section 5 of the Export Administration Act of 1969, as added by section 104(b) of this Act, is amended by adding at the end thereof the following new subsection:

"(1) DIVERSION TO MILITARY USE OF CONTROLLED GOODS OR TECHNOLOGY.—(1) Whenever there is reliable evidence that goods or technology, which were exported subject to national security controls under this section to a country to which exports are controlled for national security purposes, have been diverted to significant military use, the Secretary shall, for as long as that diversion to significant military use continues—

"(A) deny all further exports to the party responsible for that diversion of any goods or technology subject to national security controls under this section which contribute to that particular military use, regardless of whether such goods or technology are available to that country from sources outside the United States; and

"(B) take such additional steps under this Act as are necessary to prevent the further military use of the previously exported goods or technology.

"(2) As used in this subsection, the terms 'diversion to significant military use' and 'significant military use' include, but are not limited to, the use of goods or technology in the design or production of any item on the United States Munitions List.".

Mr. MILLER of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio (Mr. MILLER)?

There was no objection.

(Mr. MILLER of Ohio asked and was given permission to revise and extend his remarks.)

Mr. MILLER of Ohio. Mr. Chairman, there is one important item missing from this act which must be corrected. The item concerns what the administration should do once a determination has been made that a military diversion has taken place by a country to which we are controlling exports for national security reasons.

This amendment would require the President to stop any further export of American goods or services to the particular project or plant which is producing the item on the U.S. munitions control list.

The need for this amendment can be easily recognized through the Kama River truck plant episode. Whether there were adequate "safeguards" or "end-use" statements in place should not be the focus of attention at this stage of the game.

The fact is—

The plant is in existence;

It was built in large part with American technology and equipment; and

It is producing military vehicles not only for Soviet use, but for the Warsaw Pact as well.

Therefore, the question now confronting us is what should America do today? Not what we should have done yesterday. Are we going to continue the export of spare parts and technical expertise to keep the plant in operation? If we do, we are very foolish.

This amendment seeks to clarify U.S. policy once a diversion has occurred.

All we are saying with this amendment is that if by chance the "safe guards" and "end-use" statements fail; if by chance we made a mistake by transferring the technology—and that it can be shown that the Soviets are using the exports for miltary purposes—then we must stop the further flow of goods and services which will contribute or support the diversion.

We cannot abdicate our responsibility by saying, "the previous administration is responsible for this military truck plant in the Soviet Union; it is too late now; the water is over the dam, and we should therefore continue to ship them the spare parts and technical advice they need to keep the plant in operation." That attitude is ridiculous. Why should we aid in continued diversion?

The arguments can be raised, "won't the French or Germans come in and supply the technical expertise and material to keep the plant going?" I do not think so. Once the President learns that a diversion has taken place. He should immediately go to our allies and say—"we made a mistake, we did not think the Russians would use this export for military purposes. They breached the understanding. Therefore, we are going to cancel all existing license agreements and to the best of our ability, we will try to prevent the export of spare parts and technical advice they need to run the plant. Can we count on your help?"

I have faith that our allies will listen to such a plea, and work with us to keep the West strong.

If they choose to undercut us, they are only hurting themselves, because one day the Warsaw Pact nations may decide to challenge NATO with superior military strength. The cause for such a confrontation will be in large part their doing.

Mr. Chairman, why should the United States have a munitions control list to prevent the export of military hardware to countries deemed as potential adversaries—if we turn right around and transfer the technology and equipment needed to produce the very items we are trying to keep from falling in the hands of these nations?

If we are going to build the Soviet Union a truck plant to assist in the production of military troops transport vehicles, armored personnel carriers, and tank turrets, why not scrap the munitions list, and sell them the equipment directly?

If the Soviets choose to divert U.S. technology for their military—let us call the deal off. That is the least we can do.

Mr. Chairman, I believe we should take a few minutes and define some of the terms used in this amendment so that there will be no misunderstanding of its original intent when the Commerce Department implements it.

By "reliable evidence that goods or technology have been diverted," we mean when the administration has reason to believe that a diversion is taking place. It does not mean the administration must sit back and wait for some third party to bring in the absolute proof that a diversion has taken place. When dealing with national security issues and with nations like the U.S.S.R., there is rarely absolute proof of anything. The administration must act on those items it has reason to believe are being used for military purposes. As a result, American intelligence agencies must aggressively investigate any allegations that a diversion is taking place. In addition, they must have the attitude that when dealing with Communist nations—if technology can be diverted for military use, it will be.

The term "significant military use" is at least tied to the munitions list. There may be other items not specifically on the U.S. munitions list that need to be controlled for national security reasons. Law enforcement and intelligence gathering equipment could be examples of such items. Items on the "critical technology list" currently being developed within the Department of Defense will probably be added to the list of items we do not want the Soviet Union producing with U.S. technology and support services. As a result, the administration must be given the flexibility to broaden the definition of "significant military use" beyond the items on the U.S. munitions list.

The term "diversion" does not necessarily have to be connected with the use of "safeguards" and "end-use" statements. Because of the Miller "safeguard" amendment overwhelmingly accepted by this body—271 to 138—on Tuesday, September 11, license applications to potential adversaries cannot be approved on the basis of "safeguards" or on the assumption that "end-use" statements will be followed. We must still assume that if it can be diverted, it will be diverted. Therefore, the United States should not export the goods or technology. However, the Soviets are very good at using American civilian technology for military purposes. This amendment is needed to protect U.S. national security on those items we exported where we did not realize that it could be diverted for military use by a potential adversary.

The very nature of the Export Administration Act we are amending today defines that we are dealing with dual-use technologies, and that the United States would not export goods or technology which could be used in the design or production of items on our munitions list. So, if for example, the Soviet Union is using the Kama River truck plant to produce military vehicles—or "civilian" vehicles later diverted for direct military use, that is, rocket launchers, troop transport carriers, et cetera—it can be said that a diversion has taken place—regardless of the presence of "end-use" statements or "safeguard" arrangements.

Finally, this amendment does not limit the President on additional actions he chooses to take in dealing with governments like the Kremlin. This amendment is only the bottom line. If he knows of a diversion, his administration must act.

He can do more than the amendment requires, but he must meet this bottom line.

Mr. Chairman, I believe that this is a constructive amendment which will greatly improve the bill. I urge that it be accepted. Thank you.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I wish we could debate this amendment and discuss it but it would take some time to do so. Under the circumstances, since we only had this amendment given to us fairly recently, I will not object to it. I think it may require some clarification in conference, but at this point I am pleased to accept the amendment.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, on behalf of the minority, I accept the amendment with the same caveat expressed by the gentleman from New York.

Mr. BINGHAM. It may require some clarification in conference.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman from California, and I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. MOAKLEY

Mr. MOAKLEY. Mr. Chairman, I offer a series of amendments, and ask unanimous consent that they be considered en block.

There is one substantive amendment but it necessitates five technical amendments.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts (Mr. MOAKLEY)?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. MOAKLEY: Page 55, insert the following after line 19 and redesignate subsequent sections accordingly:

REFINED PETROLEUM PRODUCTS

SEC. 121. Section 7 of the Export Administration Act of 1969, as amended by section 109 of this Act, is amended by adding at the end thereof the following new subsection:

"(o)(1) No refined petroleum product or residual fuel oil may be exported except pursuant to an export license specifically authorizing such export. Not later than five days after an application for a license to export any refined petroleum product or residual fuel oil is received, the Secretary shall notify the Congress of such application, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export. Such notification shall be referred to a committee of appropriate jurisdiction in each House of Congress.

"(2) The Secretary may grant such license if, within five days after notification to the Congress under paragraph (1) is received, a meeting of either committee of Congress to which the notification was referred under paragraph (1) has not been called, with respect to the proposed export, (A) by the chairman of the committee, (B) at the request in writing of a majority of the members of the committee, or (C) at the request of the Speaker of the House of Representatives or the Majority Leader of the Senate. Any such meeting shall be held within 10 days after notification to the Congress under paragraph (1) is received. If such a meeting is so called and held, the Secretary may not grant the license until after the meeting.

"(3) If, at any meeting of a committee called and held as provided in paragraph (2), the committee by a majority vote, a quorum being present, requests 30 days, beginning on the date of the meeting, for the purpose of taking legislative action with respect to the proposed export, the Secretary may not grant the license during such 30-day period.

"(4) Notwithstanding the provisions of paragraph (2) and (3) of this subsection, the Secretary may, after notifying the Congress of an application for an export license pursuant to paragraph (1), grant the license if the Secretary certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that the proposed export is vital to the national interest and that a delay will cause irreparable harm.

"(5) At the time the Secretary grants any license to which this subsection applies, the Secretary shall so notify the Congress, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export.

"(6) This subsection shall not apply to (A) any export license application for exports to a country with respect to which historical export quotas established by the Secretary on the basis of past trading relationships apply, or (B) any license application for exports to a country if exports under the license would not result in more than 250,000 barrels of refined petroleum products and residual fuel oil being exported from the United States to such country in any fiscal year.

"(7) For purposes of this subsection, 'refined petroleum product' means gasoline, kerosene, distillates, propane or butane gas, or diesel fuel.

"(8) The Secretary may extend any time period prescribed in section 10 of this Act to the extent necessary to take into account delays in action by the Secretary on a license application on account of the provisions of this subsection."

Page 59, line 1, strike out "and".

Page 59, line 2, insert after "Act," the following: "and subsection (o), as added by section 121 of this Act,".

Mr. MOAKLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

Th CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

□ 1240

(Mr. MOAKLEY asked and was given permission to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Chairman, during the August recess, the Department of Commerce granted export licenses for the sale of $47 million worth of petroleum products to Iran. There was much public outcry over this sale, and I was active in this protect.

I would like to point out that my objection has not been raised because I want to stop aid from going to the people of Iran, nor have I been protesting an action that may ultimately be in the best interests of this country. Rather, my objections were prompted by the fact that this oil was shipped with no advance notice to the Congress at a time when our own citizens are concerned that they may be facing serious shortages of home heating oil this winter.

In fact, Mr. Chairman, just let me explain for a moment the particular situation in which I found myself when the announcement of the export to Iran was made. The original target date put out by the Energy Department for the time at which we were to have sufficient heating oil stockpiled had already slipped by a full month. I was home in my district telling senior citizens that they would most likely be faced with lower temperatures in their homes this winter, telling housing projects that they might well have to take the risk of maintaining only 20 percent supply of heating oil in their tanks—which may cause the sediment to start flowing through the pipes and may cause the furnaces to shut down—and telling everyone that they would have to make the maximum effort to conserve.

It was clear that things could well be very serious this winter for many people, particularly the elderly and the poor. Then, all of a sudden, the Energy Department announced that we had plenty of home heating oil and were, in fact, shipping some of it to Iran.

Mr. Chairman, the people in my district and throughout the northeast were deeply concerned about that action. We have received a great many conflicting reports from the Department of Energy. It is not at all certain that we are going to have sufficient home heating oil this winter. Energy experts from across the country are doubting whether supplies will be sufficient this winter, particularly if this winter follows the recent pattern of severe cold temperatures. A Small Business subcommittee staff report that was recently issued expressed grave doubts about supplies because, even if we meet the Energy Department goal for primary storage, the amounts of oil at the secondary and tertiary level—the retailers and the consumers—are unseasonably low. The overall situation is still not good.

And, even if we do manage to squeak by with enough, Mr. Chairman, the prices people will be paying are astoundingly high—much higher in most instances than the price Iran paid for the amount they received. As Deputy Energy Secretary O'Leary testified a short while ago, people may literally be faced this winter with a choice between heat for their homes and food.

When there is that kind of domestic impact involved, Mr. Chairman, it seems imperative to have export decisions like the Iranian one subject to congressional scrutiny—not necessarily to bar exports, but to insure that they do not threaten our own national interests. The amendment I now offer seeks to remedy this situation and allow for an open review of a few major energy export decisions with the potential for this kind of impact.

First, by major export decisions I mean

two things: One is that the export would have to be going to a country with which we do not ordinarily trade in refined petroleum products, or the export would have to be significantly greater than usual. Exempt from coverage under this amendment will be all our usual trading partners, like Canada, Mexico, and the countries of the Caribbean. The other provision is that this amendment will apply only to exports that would involve sending more than 250,000 barrels of refined petroleum or residual fuel oil annually to any one country. Here again, the vast majority of our usual, routine, day-to-day transactions will be exempt from the requirements of this amendment.

In those few instances, however, in which a relatively large amount of refined petroleum is going to a country to which we do not ordinarily export such amounts, the amendment requires that the Department of Commerce, after receiving a request for an export license, notify the appropriate committee of each House of Congress of the name of the exporter, the destination of the proposed export and the amount and price of the proposed export.

Once the appropriate committees have received such notification, the amendment gives 5 days for a hearing to be called in either committee in regard to the proposed export, if they feel the proposal is significant enough and serious enough to warrant review. If a meeting were called, either committee would have 10 days—that is a total of 10 days from the time of notification—in which to actually hold a hearing. In all but the most indefensible instances, the maximum delay imposed by this amendment would be 10 days from the time the Department of Commerce received the export application.

This amendment, Mr. Chairman, is drawn as carefully as possible to provide congressional review in a few important instances without in any way adversely affecting the great majority of transactions between this country and our trading partners. I recognize, however, that even as moderate as this amendment is, it might still possibly be necessary in an emergency (such as an outbreak of hostilities in the Middle East) to forego any congressional review. As a result, there is one final provision in this amendment, one final measure of flexibility. It is that the Secretary of Commerce can waive any review—even the initial 5 days—by deeming the export vital to the national interest and certifying that delay would cause irreparable harm. This would pave the way for immediate export.

In summary, Mr. Chairman, let me emphasize that my amendment does not seek to stop future energy exports, nor does it try to tie the hands of the Commerce Department or of the energy exporting companies in dealings in foreign trade. It is specifically designed not to affect any routine transactions.

Rather, it seeks to insure a congressional voice in a few unique instances in which the Departments of Commerce, Energy, and State are making rather radical departures from our usual trading patterns, in transactions that involve relatively large amounts of refined petroleum products. In that limited number of cases, Congress should have at least a few days to review the decisions of those agencies—decisions that are affecting the lives and well-being of a great many of our constituents.

This is a most reasonable approach, Mr. Chairman, and I urge the support of my colleagues for this important amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I would be glad to yield to the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, the gentleman's amendments refer to past historical quotas based on past trading relations. Am I correct in my interpretation that means existing trading partners will not have to worry about the reliability of the United States as a supplier of refined oil products?

Mr. MOAKLEY. The gentleman is correct.

Mr. LAGOMARSINO. Mr. Chairman, I believe the gentleman's amendments are very useful. For one thing, it will help to lay to rest the mistaken notion that it comes out of ordinary exports of oil products that are happening all the time.

Mr. Chairman, on behalf of the minority we accept the amendments.

Mr. BEARD of Rhode Island. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Rhode Island.

Mr. BEARD of Rhode Island. Mr. Chairman, I would like to go on record as supporting the gentleman from Massachusetts on his amendments.

Mr. MOAKLEY. Mr. Chairman, I yield to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Chairman, I thank the gentleman for yielding.

I would like to commend the gentleman from Massachusetts for this amendment. I think it is an excellent one.

The whole situation points up the inadequacy of the Carter administration in terms of its understanding of how Americans, ordinary Americans, respond to problems in the energy field. The gentleman's amendment is a constructive step toward overcoming or at least bypassing that inadequacy. I do commend the gentleman for his effort.

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

The CHAIRMAN. The question is on the amendments offered by the gentleman from Massachusetts (Mr. MOAKLEY).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: Page 63, insert the following after line 6:

(c) Regulations implementing the provisions of section 10 of the Export Administration Act of 1969, as added by section 104(c) of this Act, shall be issued and take effect not later than July 1, 1980.

Mr. BINGHAM. Mr. Chairman, the Members will recall that this section provides somewhat complicated procedures for imposing deadlines on the various stages of the export administration process. The amendment would give the administration 9 months in which to bring those procedures into effect. We believe they are doing this administratively today. They are working out those procedures. I think the 9 months is necessary for them to get into line. Otherwise, they would have to impose these procedures by October 1, which is the date the bill otherwise would take effect.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I commend the gentleman for offering this amendment. I think it is an improvement to the bill and will take care of some problems.

I accept it on behalf of the minority.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ZABLOCKI

Mr. ZABLOCKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ZABLOCKI: Page 63, after line 18, insert the following:

TITLE III—MISCELLANEOUS

SEC. 301. Section 402 of the Agricultural Trade Development and Assistance Act of 1954 is amended by inserting "or beer" in the second sentence immediately after "wine".

(Mr. ZABLOCKI asked and was given permission to revise and extend his remarks.)

Mr. ZABLOCKI. Mr. Chairman, this amendment is designed to correct an inequity in present law which discriminates against beer as one America's export items.

The situation arises from the current wording of section 402 of Public Law 84-480, the Agricultural Trade Development and Assistance Act of 1954. This act is the authorizing legislation for the U.S. Department of Agriculture's overseas market development program.

Section 402 states that the term "agricultural commodity" under that act shall not include alcoholic beverages. Section 402 goes on to exempt wine from this prohibition, by providing that the U.S. wine industry can take part in market development activities financed by local currencies under this law which was designed to promote American agricultural export sales.

Thus, under present law, while American wines can be exhibited at USDA shows abroad, American beers cannot, notwithstanding that other nations have their competing export beers on display. Indeed, if it were a U.S. Commerce Department exhibit, American beers could be included; but not with the Agriculture Department.

So we have a self-defeating situation such as occurred at a recent Harumi Pier International Food Show in Tokyo,

where there were at least a dozen West German, Australian, and Dutch beers displayed, but none from the United States of America.

My amendment would remove the discrimination in the present law by putting American beer exporters on the same basis as wine.

Mr. Chairman, I am of course particularly interested in removing this legal discrimination because of my desire to help Wisconsin's agricultural exports. Beer is an important product of my State. I also happen to think we produce the world's best.

It is important to our State's economy. Some 10,000 workers are employed in the brewing industry in Wisconsin. It is a billion dollar industry in our State. It is of course an important contributor to economies in other States.

At this time of recession at home and big deficits in our foreign trade, it is incumbent upon us to do what we can to increase American sales abroad.

The Secretary of Agriculture, the Honorable Bob Bergland, supports this amendment in the interest of American farmers. The Wisconsin State AFL-CIO and the State Brewers Association support it. The Office of Management and Budget have indicated no objection to it. It does not involve any expenditure of taxpayers' funds.

I ask unanimous consent to include in my remarks, letters of support from Secretary Bergland and from the Wisconsin Secretary of Agriculture, Trade and Consumer Protection, the Honorable Gary Rhode.

I urge adoption of this amendment.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., September 11, 1979.

Hon. CLEMENT J. ZABLOCKI,
Chairman, Commission on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for a report on a proposed amendment to H.R. 4034, the purpose of which would be to allow beer to be among the items included in U.S. Department of Agriculture export promotion exhibits abroad.

As we understand the amendment, it would add the words "or beer" in the second sentence immediately following the word "wine" in Section 402 of the Agricultural Trade Development and Assistance Act of 1954.

The Department favors enactment of the amendment.

The omission of beer from those products eligible for export promotion assistance discriminates against beer produced in the United States. We favor increased exports of American agricultural commodities, and beer is an important product made from our farm products.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the President's program.

Sincerely,

BOB BERGLAND,
Secretary.

STATE OF WISCONSIN,
May 17, 1979.

Hon. CLEMENT J. ZABLOCKI,
U.S. House of Representatives,
Rayburn House Office Bldg.,
Washington, D.C.

DEAR REPRESENTATIVE ZABLOCKI: Our department has been intensifying its efforts over the last few years to increase Wisconsin agricultural exports. We work with producers of raw agricultural commodities, as well as suppliers of processed food and beverage products.

We have found that the American Food Exhibits sponsored by the Foreign Agricultural Service of the U.S. Department of Agriculture (FAS/USDA) are a useful forum in which to introduce and promote Wisconsin food products before an international audience. Unfortunately, the members of one of our most important industries, Wisconsin's beer brewing companies, are precluded by law from showing their products at these exhibits.

Public Law 89-808, approved in November 1966, amended P.L. 84-480, the authorizing legislation for the overseas market development program for FAS/USDA. Section 402 of the 1966 legislation read in part: "The term 'agricultural commodity' shall not include alcoholic beverages . . .".

In 1971, P.L. 92-42 amended section 402, releasing the prohibition for domestic wine prodoucers. This was accomplished through the efforts of the California wine producers. The prohibition, however, remains in effect for beer.

The inability of Wisconsin's brewers to display their products at these overseas trade shows puts them at a great disadvantage relative to beer producers from other countries. For example, at the recent Harumi Pier International Food Show in Tokyo, Japan, there were at least a dozen West German, Australian, and Dutch beers displayed. There were no American beers on display in the U.S. exhibit.

Wisconsin's beer industry is a major component of our state's economy. Approximately 10,000 people are directly employed by local brewing companies, which generate a total annual revenue of almost one billion dollars. Of course, the wider effect on the economy can be imagined when one considers all the other Wisconsin companies that supply and service the brewing industry. The prohibition of beer at government-sponsored international food shows appears to be unique to the United States at this time, as evidenced by the plethora of foreign beers seen on display overseas. Even U.S. wine is not so hindered in its international marketing efforts.

We feel that it would be of benefit for the Wisconsin beer industry, the farmers who provide the raw materials for the brewing process, and the state's economy in general for this law to be amended further so as to allow Wisconsin beer to gain greater international exposure. We would like to urge you to study this legislation with the prospect of altering the inequity that allows U.S. wine to be displayed at USDA shows, while our beer is not. Such a change would not only be in the best interest of fair competition, but also would stimulate growth in the important Wisconsin brewing sector.

At a time when our national balance of trade is in deficit, State and Federal governments must make every attempt to remove regulations that unnecessarily impede the expansion of exports. There is considerable interest in Wisconsin for an amendment that would allow beer to be shown at USDA shows, including the Wisconsin State Brewers Association and the Wisconsin State AFL-CIO.

We would be pleased to assist you in any way with regard to this issue. Thank you for your kind attention.

Sincerely,

GARY E. RHODE,
Secretary.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I am happy to concur in the gentleman's amendment.

Mr. ZABLOCKI. I rest my case, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

The amendment was agreed to.

Mr. BINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, just to lay out the procedure, we have 15 more minutes. We can conclude the consideration of this bill with a record vote on the gentleman's amendment to start at 1 o'clock. I see no reason for a recorded vote on final passage.

Mr. ASHBROOK. Mr. Chairman, just a minute.

Mr. BINGHAM. Mr. Chairman, the gentleman may really be fouling us up here. The final passage of the bill is not controversial.

Mr. ASHBROOK. Wait a second. What did the gentleman mean, we will be fouling it up, by orderly legislative process?

The CHAIRMAN. Regular order will be observed.

Mr. BINGHAM. I tried to explain before. We have been trying desperately to finish this bill today. I am just asking for consideration. If anyone wants to vote against final passage of the bill, wants to call for a record vote, that is their intention.

I wanted to explain to the gentleman from California (Mr. DANNEMEYER) that I felt the gentleman's amendment could be dealt with. The gentleman would have the full 5 minutes to present it.

Others can present their remarks and revise and extend and start that record vote at 1 o'clock and then the Members can leave. If Members wish to call for a recorded vote on final passage and wish to do so, that is their privilege.

Mr. DANNEMEYER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1250

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Are there any further amendments?

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 62 after line 24 add the following new section and renumber the succeeding sections accordingly.

SEC. 124. Notwithstanding any other provision of this Act subsection (1) of section 7

of the Export Administration Act of 1969 as such section is redesignated by section 104(a) of the Act, is amended—

(1) in paragraph (1)—

(A) by striking out clause (A) and inserting in lieu thereof the following: "(A) is exported to another country in exchange for the same quantity of crude oil being exported from an adjacent foreign country to the United States, or", and

(B) by striking out "during the 2-year period beginning on the date of enactment of this subsection"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

"(A) the President makes and publishes express findings that exports of such crude oil, including exchanges—

"(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

"(ii) will, within three months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refineries which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil which is exported, and (II) commensurately reduced wholesale and retail prices of products refined from such imported crude oil;

"(iii) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

"(iv) are clearly necessary to protect the national interest; and

"(v) are in accordance with the provisions of this Act; and

"(B) the President reports such findings to the Congress and the Congress, within sixty days thereafter, passes a concurrent resolution approving such exports on the basis of the findings.

Findings of lower costs and prices described in subparagraph (A)(ii) should be audited and verified by the General Accounting Office at least semiannually.

"(3) Notwithstanding any other provision of this section and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any nation pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before May 1, 1979.

"(4) The limitations of this subsection, and the requirement contained in subsection (u) of section 28 of the Mineral Leasing Act of 1920 that the President make certain findings, shall be effective only during a period in which, as determined by the President, the major oil exporting countries have imposed severe restrictions on the export of oil to the United States.".

Mr. DANNEMEYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANNEMEYER. Mr. Chairman, I am offering this amendment in an effort to resolve a complication that is interfering with our domestic oil supply situation. Currently, our North Slope Alaskan oil fields are expanding their production in spite of the fact that they presently outproduce the refinery capacity of the closest domestic refining market, the west coast. The consequent higher costs of shipping excess Alaskan crude oil to the gulf coast ports, due to the inability of west coast refineries to accommodate it, represents dollars that could either be used to develop new sources of oil or could be passed along to the consumers in the form of lower prices at the pump.

Ironically, Mexico, which is on its way to becoming a major world supplier of oil, has somewhat the same problem. While the closest markets for its oil, much of which is located in the Gulf of Mexico, are obviously the gulf coast ports of the United States, it may be shipping oil through the Panama Canal to Japan under terms of a proposed agreement. Paradoxically, of course, Japan is a lot closer to Alaska than it is to Mexico.

With the energy shortage being a fact of life, with inflation running at 13 percent and with the easy availability of Mexican oil, limiting ourselves to less oil, or higher prices, or both makes no more sense than it does for Mexico, which needs every peso it can get to promote economic development, to ship oil through a canal and across an ocean when it could ship it just across a gulf.

What would make a whole lot more sense would be for this Congress to reject the idea of a prohibition on Alaskan oil imports so that the way would be clear for a barter arrangement to be worked out between the United States, Japan, and Mexico. The United States could send some of its surplus Alaskan oil, surplus being defined as that amount over and above west coast refinery capacity, to Japan in lieu of Mexican oil and in turn, the Mexicans would send the oil that would otherwise go to Japan, to U.S. gulf coast ports. Oil shipments would be speeded up, hopefully costs would be lessened and the dependence on the Panama Canal, which could always be nationalized and closed now that the United States has surrendered its claim of sovereignty, would be substantially reduced. Furthermore, relations between the United States and Mexico, strained in the aftermath of the President's less than successful recent visit, would stand a good chance of being improved.

So that such a barter arrangement could be worked out, if the parties were willing, my amendment would waive the Alaskan oil export prohibition except when foreign nations impose severe restrictions on the export of oil to the United States. To give my colleagues a better idea of why this is needed and how it would work, let me elaborate for a moment on the remarks I made at the outset.

At present, the North Slope oil fields in Alaska produce 1.2 million barrels of oil per day, a rate of production that will soon rise by 200,000 barrels per day and will ultimately peak at two million barrels per day, the capacity of the trans-Alaska pipeline. From there, one would expect the oil to be shipped to the closest point, the west coast and either refined or piped East. However, west coast refineries can refine only 850,000 barrels a day of crude oil, due to severe environmental restrictions on refinery construction and expansion, and there is no west-to-east pipeline for the shipment of crude oil, so the only way to get Alaskan crude in excess of west coast refinery capacity to the Middle West and Texas is to ship it via the Panama Canal. This, in turn, means that the large oil tankers that bring the oil down from Alaska must offload the oil onto a fleet of small tenders for the canal passage. Thus, the extra cost of shipping has been estimated to add roughly $2 to the price of oil—not an inconsequential sum even in these days of high oil prices.

The Japanese, likewise, are faced with the problem of higher than necessary shipping costs when importing oil from Mexico. Japan imports almost all its oil and is bargaining with the Mexican Government for the importation of crude oil, but Mexico's only point of oil export is on the Gulf of Mexico. Consequently, Mexican oil bound for Japan must transship the Panama Canal just like oil bound for Galveston from Alaska.

The closer proximity of Alaska to Japan, and the fact that oil from Alaska to Japan would not have to go through the canal, has apparently not escaped the attention of the Japanese for they have indicated an interest in buying approximately 300,000 barrels per day of Alaskan crude oil now. This figure also corresponds to the amount Japan may contract to purchase from the Mexican Government. Likewise, this figure is close to the amount of Alaskan oil presently being produced in excess of west coast refinery capacity, so we could easily make a deal with Japan to meet their oil needs and with Mexico to receive the oil that would have been sent to Japan. In this manner, all parties could get their oil more quickly and save some money to boot. The positive effects of this action would either be a reduction in cost of crude oil at the refinery, or an added incentive to production, or a combination of the two. The nature of possible savings at the refinery would be dependent upon market supply conditions from time to time. If there were a crude oil supply shortage, the price would tend to drop the degree it would if there were a condition of oversupply of crude oil to refineries. Transportation cost savings not realized at the refinery or the gas pump would be retained by the suppliers and these additional profits could reasonably be expected to facilitate further exploration and development in the energy field.

The CHAIRMAN. The time of the gentleman from California (Mr. DANNEMEYER) has expired.

Mr. DANNEMEYER. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAILEY. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words,

and I yield to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Chairman, I thank the gentleman from New York (Mr. BINGHAM) for his courtesy.

Mr. Chairman, this amendment can have far-reaching positive effects on our balance of trade position regarding both Japan and Mexico. In 1977 our balance-of-trade deficit with Japan was approximately $8.1 billion. If we were to export the majority of our current surplus ANS oil (300,000 barrels per day) at $20 per barrel we could reduce this deficit by $2.19 billion. In 1977 Mexico had a trade deficit with the United States in the amount of $121 million. The purchase of additional Mexican crude oil could create a positive trade balance with Mexico that could help facilitate industrialization in a nation that cannot employ its people. Such industrialization represents a long term solution to the problems of unemployment and illegal immigration to the United States that has plagued United States-Mexico relations for so long. The benefits from this facet of this amendment bear careful consideration by the House in view of their significant foreign policy and economic implications.

My amendment proposes that export of Alaskan crude oil be permitted only when a barter arrangement may be worked out with a contiguous foreign nation. This guarantees that export of crude oil will not result in a net loss of oil to the nation, but will insure faster more economical deliveries. The reference to a contiguous foreign nation narrows the applicability of this provision, but it also prevents further dependency upon potentially interruptible foreign sources since a foreign source, that is adjacent to our borders, may be made more secure than ones that depend upon ocean shipment of supplies.

There is additional benefit, heretofore unmentioned, that would come out of such a barter arrangement. Interestingly, Mexican crude oil, while similar in sulfur content to Alaskan crude, has a lower specific gravity. This, in turn, permits refiners to obtain a higher percentage of gasoline from each barrel of crude oil delivered. I need hardly remind anyone here of the significance of that fact in terms of the gas lines we have been experiencing lately.

The objection has been raised that adoption of this amendment would hurt our merchant marine. But this argument overlooks the fact that additional oil may be produced to offset, at least somewhat, the reduction in shipping distance and that this additional production might keep our ships busy. Furthermore, the fate of our merchant marine is only one of a number of factors that have to be considered here. Even if the critics are right, should that concern outweigh the incentives to production, the possible savings to consumers, and the prospect of improved relations with our neighbor to the south? I think not. A balance has to be struck and adoption of this amendment to waive the prohibition on Alaska oil exports would help strike it. I urge adoption of the amendment.

● Mr. MOAKLEY. Mr. Chairman, I am opposed to the amendment offered by the gentleman from California.

We must maintain protection of our ever-decreasing domestic oil reserves for American consumption and resist efforts to allow exportation of Alaskan oil without careful examination of the costs and benefits.

The bill, as it is written now, does not prevent Alaskan crude from ever being exported, but it does seek to insure that if and when it becomes available for trade it will be to the benefit of the American consumer and not to just the oil-producing corporations.

It is our responsibility to retain a congressional voice in determining our export options, and the bill presently maintains that any oil exchange plan must be approved by both Houses of Congress and not be left up solely to the executive branch.

Let's look at who would benefit from an oil exchange. First, the price of Alaskan oil is already completely decontrolled. Since it is pegged to world prices of crude oil, OPEC increases result in price increases for Alaskan oil.

This has proved to be very profitable for the oil companies. According to an article in "Petroleum Intelligence Weekly" in June of this year, after-tax profits on Alaskan sales to the United States west and gulf coast markets have soared past $3 a barrel and could reach $4.10, which would be an 85-percent increase.

The incentive for the oil corporations in shipping this oil to Japan rather than the continental United States is that they will save about $2 per barrel in transportation costs, increasing their profits even more—not to mention that the tankers they use can be foreign-flag ships using foreign crews.

Second, Alaskan oil's heavier gravity makes it ideally suited for the production of home heating oil. At a time when we are trying to build up our heating oil stocks for the winter, especially for the oil-dependent New England region. I feel we should not ease the restrictions on its export.

How can we justify sending domestically produced oil to Japan or any country when the American people are still skeptical about the origins of our summer liquid fuel shortages? We are now at a time when our President, along with the Congress, is trying to renew confidence in Government and I believe that any exportation of domestic oil would seriously undermine our efforts.

I urge defeat of the amendment.●

□ 1300

Mr. BINGHAM. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. CONABLE asked and was given permission to address the House for 1 minute.)

Mr. CONABLE. Mr. Speaker, I reserve this time for the purpose of inquiring of the distinguished majority leader about the schedule for next week.

Mr. WRIGHT. If the gentleman will yield, there are three things which, as an absolute minimum, we must attend to if we are to avail ourselves of the opportunity of the planned home district work period for the first part of October.

Those three things are: The continuing appropriations, the public debt limitation, and the Panama Canal implementing legislation.

It seems obvious and beyond the necessity of any explanation that the House could not in good conscience abandon its duty and leave the public in the lurch with those needs unattended. Each of those bills has a very short fuse. They should be attended before the 1st of October, and that means next week.

Mr. Speaker, having said that, I will give to the gentleman and the Members the program as I see it from the vantage point of this far out.

On Monday we plan no votes at all, and recorded votes would be postponed until Tuesday. There is one District bill, the D.C. Retirement Reform Act. After that we would proceed to eight bills listed under suspension of the rules, proceed with H.R. 2795, International Travel Act authorizations, and H.R. 3642, emergency medical services reauthorizations, doing general debate only on those two bills. In each instance, they are open rules, with 1 hour of general debate authorized.

On Tuesday the House would meet at noon. There would follow the recorded votes on any suspensions and, if required, on the District bill, which would have been debated on Monday.

We plan then to proceed to the consideration of House Joint Resolution 404, Continuing Appropriations for Fiscal Year 1980, on which a rule already has been adopted.

Then we would take up H.R. 4034, Export Administration Act Amendments of 1979, and hope to complete consideration; then proceed to the consideration of H.R. 2795, International Travel Act authorizations, and H.R. 3642, emergency medical services reauthorizations, voting on the amendments and, we would hope, on the bills.

On Wednesday, Thurdsay, and Friday we would meet at 10 a.m. We would come to the second concurrent budget resolution, then to the Public Debt Limitation, following that with S. 832, FEC amendments; H.R. 5359, Defense appropriations, fiscal year 1980; H.R. 3000, DOE authorizations, 1980; H.R. 3180, DOE authorizations, 1979; H.R. 2859, Domestic Volunteer Service Act amendments; H.R. 2061, LEAA reauthorizations; and H.R. 3303, Justice Department authorizations, 1980.

We make clear, Mr. Speaker, that conference reports may be brought up at any time and, in that connection, I

EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4034, with Mr. SEIBERLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, September 21, 1979, section 117 and the remainder of the bill had been considered as having been read and open to amendment at any point. Pending was an amendment offered by the gentleman from California (Mr. DANNEMEYER).

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 62 after line 24 add the following new section, and renumber the succeding sections accordingly.

SEC. 124. Notwithstanding any other provision of this Act subsection (1) of section 7 of the Export Administration Act of 1969 as such section is redesignated by section 104 (a) of the Act, is amended (1) in paragraph (1)—

(A) by striking out clause (A) and inserting in lieu thereof the following: "(A) is exported to another country in exchange for the same quantity of crude oil being exported from an adjacent foreign country to the United States, or", and

(B) by striking out "during the 2-year period beginning on the date of enactment of this subsection"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

"(A) the President makes and publishes express findings that exports of such crude oil, including exchanges—

"(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

"(ii) will, within three months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refineries which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil which is exported, and (II) commensurately reduced wholesale and retail prices of products refined from such imported crude oil;

"(iii) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

"(iv) are clearly necessary to protect the national interest; and

"(v) are in accordance with the provisions of this Act; and

"(B) the President reports such findings to the Congress and the Congress, within sixty days thereafter, passes a concurrent resolution approving such exports on the basis of the findings.

Findings of lower costs and prices described in subparagraph (A)(ii) should be audited and verified by the General Accounting Office at least semiannually.

"(3) Notwithstanding any other provision of this section and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any nation pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before May 1, 1979.

"(4) The limitations of this subsection, and the requirement contained in subsection (u) of section 28 of the Mineral Leasing Act of 1920 that the President make certain findings, shall be effective only during a period in which, as determined by the President, the major oil exporting countries have imposed severe restrictions on the export of oil to the United States.".

Mr. WOLPE. Mr. Chairman, I rise in opposition to the amendment.

(Mr. WOLPE asked and was given permission to revise and extend his remarks.)

Mr. WOLPE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California (Mr. DANNEMEYER), and I would urge my colleagues to attend very carefully to what the Dannemeyer amendment would accomplish.

□ 1610

The Dannemeyer amendment would effectively allow exports of Alaskan oil to proceed without meeting a single test or condition, not even a national security test. The amendment of the gentleman from California would permit restrictions on the export of Alaskan oil only when, in the language of the amendment, "the major oil exporting countries have imposed severe restrictions on the export of oil to the United States."

In all other circumstances only the oil companies would decide what happens to Alaskan oil and the Congress would have no say whatsoever in its disposition.

The language that was adopted by the Committee on Foreign Affairs, that the gentleman from California seeks to amend, was approved overwhelmingly in a 21 to 9 vote after very thorough consideration and debate. The proposed restrictions on the export of Alaskan oil that are within the bill before you are motivated by two central concerns: first, the need to reduce American dependence on unstable foreign oil supplies; and, second, the desire to see the oil companies honor the promise made at the time of the authorization of the trans-Alaskan pipeline to put in place the domestic infrastructure that would insure that Alaskan oil would be available to domestic American markets.

Mr. Chairman, I want to emphasize there is nothing within the language of the bill before you that flatly prohibits the export of Alaskan oil. The bill simply states that the only acceptable basis for such exports is a showing of direct consumer benefit and a showing that such exports would not adversely affect America's oil supply. The question, really, before the House is whether or not those are unreasonable criteria to impose upon the export of such a critical resource.

Mr. Chairman, the language of the bill as approved by the Foreign Affairs Committee says, further, that the Congress should have a direct and affirmative role in making decisions with regard to this very critical resource.

Mr. Chairman, who would benefit by the oil exports that the gentleman from California would like to facilitate? Certainly not the consumer. It is true, as pointed out by the gentleman from California, that the transportation costs of taking Alaskan oil to Japan would be $2 lower per barrel than the cost presently incurred in transporting Alaskan oil through the Panama Canal. But the cost of transportation does not add a single cent to the price American consumers pay for Alaskan oil because the price of Alaskan North Slope crude oil is already decontrolled. It sells for whatever price the market will bear, regardless of how much—or how little—it costs to get the oil to its destination.

The fact of the matter is that the American consumer stands to gain absolutely nothing by the export of Alaskan oil. Nor would the American national interest be served by such exports, because they would only extend our dependence upon unstable foreign oil supplies.

Only the oil companies stand to gain. It is their argument that they need additional profits to enable them to expand their production on the North Slope and to realize the full potential of the Alaskan field.

Mr. Chairman, there is absolutely no evidence, oil company protestations notwithstanding, that existing price levels and financial incentives are inhibiting North Slope production. In fact, the Alaskan North Slope oil producers recently announced their plans to increase production by 15 percent, to 1.5 million barrels per day by the end of next year. Clearly, current restrictions on Alaskan oil exports are no disincentive whatever to increased production. The simple truth is that we can expect increased production in Alaska because decontrolled Alaskan North Slope oil is enormously profitable, and has been made all the more so by recent OPEC price increases.

At some point, when confronted with the issue of profits and incentives, we have to ask ourselves, "When is enough, enough." In the first quarter of this year, Sohio, the North Slope's largest producer, reported a 302 percent increase in profits over the first quarter of last year. In the second quarter of this year there was a further 70 percent increase. Clearly, the issue is whether we are developing a public policy designed to serve the American public interest or whether we are going to continue an energy policy designed to serve only the interests of the oil industry.

Mr. Chairman, I would urge opposition to the Dannemeyer amendment. It is not in the public interest. It removes any effective congressional role in determining the disposition of Alaskan oil. It will, most importantly, prolong the time when the oil companies will begin to put into place the refinery and pipeline capacity that is so vital to insuring the future domestic use of American oil supplies.

Mr. BARNES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to

the amendment offered by our colleague, Mr. DANNEMEYER. This amendment would effectively gut the committee provisions relating to the export of Alaskan oil.

The Dannemeyer amendment would eliminate the committee requirement that any exchange or swap of Alaskan oil result in lower acquisition costs for refiners and commensurately reduced wholesale and retail prices for consumers in the United States. It would further eliminate the provision that oil exchanged with an adjacent foreign state be refined and consumed in that adjacent foreign state. Therefore, it would allow so-called swaps which benefit only the oil companies.

The Dannemeyer amendment, although appearing to provide for findings of fact, congressional approval and the GAO audit, in reality does not. The conditions and restrictions would not have to be met unless the President determines "that the major exporting nations have imposed severe restrictions on the export of oil to the United States." In other words, under the Dannemeyer proposal, there would be absolutely no restrictions on the export of Alaskan oil unless OPEC imposed another embargo.

Mr. DANNEMEYER would allow exports to proceed without meeting a single test or condition, not even a national security test. In effect, this amendment would totally exclude Congress and the executive branch from important decisions affecting Alaskan oil; the oil companies would have a blank check to export this vital resource.

It seems to me that the only prudent and responsible course of action is to have in place some safeguard restrictions before an embargo goes into effect, not hastily adopted after the fact.

I believe that the language adopted overwhelmingly by the committee, after careful and extensive consideration, is the proper policy. I might add that the Senate adopted a similar provision by a wide margin. The committee provision does not preclude exports or swaps. It simply states that the only acceptable criteria for Alaskan oil exports are a showing of consumer benefit and a showing that such exports would not adversely affect America's oil supply.

The committee language would also create an additional incentive for building a west-to-east pipeline and for retrofitting west coast refineries to handle full Alaskan North Slope production. Another feature of the committee bill is that it requires that Congress play a key role in decisions affecting what happens to Alaska oil. Any export plan must have the approval of both Houses. Under the Dannemeyer proposal, only the oil companies would decide what happens to Alaska oil.

Finally, the bill as reported would reaffirm our commitment to a strong national energy policy. It would allow exports and swaps only if certain tests were met and Congress is given an affirmative role in dealing with these proposals. The Dannemeyer amendment would do neither of these.

I strongly urge my colleague to retain the Foreign Affairs Committee language and reject the Dannemeyer amendment, which I believe is an ill-conceived and misdirected effort.

Mr. ZEFERETTI. Mr. Chairman, will the gentleman yield?

Mr. BARNES. I yield to the gentleman from New York.

(Mr. ZEFERETTI asked and was given permission to revise and extend his remarks.)

Mr. ZEFERETTI. Mr. Chairman, I strongly urge that my colleagues defeat this proposed amendment which would allow for an outright swap of Alaska North Slope oil. I urge that we approve the restrictions on export of Alaska oil as reported by the House Committee on Foreign Affairs.

It is inconceivable to me how we can allow for the export or swap of Alaska oil when it is the pronounced policy of this country to reduce our dependence on foreign oil.

It is vital that we all understand that the exchange of Alaska oil will in no way reduce our dependence on imported oil. In fact, swaps could well have the negative impact of actually increasing our reliance on foreign sources of oil.

We need look no further than to the Iranian oil cutoff for a prime example of how damaging and unwise our continued reliance on foreign sources is. Even if the United States is able to terminate the swap arrangement and to avoid our obligation to ship Alaska oil, our Nation will simply return to day one. We will not have an effective domestic oil distribution and transportation system to move Alaska oil to where it is needed the most; that is, the Midwest and the East.

Mr. Chairman, it is crystal clear to me that allowing the exchange or swap of Alaska oil will be placing an insurmountable obstacle in the way of any long-term solution to our domestic oil distribution problems. By permitting Alaska oil to be exported, we will surely sound the death knell for west-to-east pipelines. Any hope that we may have an efficient and equitable domestic oil transportation system will evaporate. Exporting Alaska oil is the surest way of guaranteeing that proposed pipelines are never built.

Mr. Chairman, we must ask ourselves who is going to benefit from these exports. Surely the oil companies stand to gain, as does the State of Alaska. But, Mr. Speaker, how about the American consumer? What is in the export of Alaska oil for him. The Dannemeyer amendment specifically eliminates the provision that would insure that any exchange or export of Alaskan oil result in a consumer benefit. Any transportation savings will be seen on the oil companies' income statement and not in the consumers' pocketbook.

I also want to point out that the export restrictions such as advocated by my colleagues, STEWART MCKINNEY and HOWARD WOLPE, do not flatly prohibit the exchange of Alaska oil. If Alaska oil is refined and consumed in the adjacent foreign state and will achieve lower oil prices for American consumers, then an exchange in like quantity and quality may take place.

Mr. Chairman, I would like to raise one final point. In most discussions of an Alaska oil swap, proponents have Alaska oil going to Japan in exchange for Mexican oil. This would hardly be an equitable exchange. According to the Cities Service Oil Company, Mexican oil is inferior to Alaska oil. More unleaded gasoline can be produced from a barrel of Alaska oil than from a barrel of Mexican oil. I am sure that the American public would be far from overjoyed at the prospect of an arrangement such as the proposed amendment would allow.

Once again, I urge you to defeat this amendment and to approve the language as reported by the House Foreign Affairs Committee.

□ 1620

Mr. MCKINNEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. MCKINNEY asked and was given permission to revise and extend his remarks.)

Mr. MCKINNEY. Mr. Chairman, it seems very strange to me that we are here arguing this subject once again. The House overwhelmingly passed the McKinney amendment which stopped the exportation of Alaskan oil over 2 years ago. In fact, the House went to the almost unprecedented length of instructing the conferees to stick to the House position.

I appreciate the interest of my colleague, the gentleman from California (Mr. DANNEMEYER) in the issue of Alaskan oil distribution. However, I take strong exception with both the approach and substance of his amendment to remove the restriction on the export of North Slope crude. The effect of the gentleman's amendment would negate the entire purpose of building a trans-Alaskan pipeline and would run counter to our efforts to reduce reliance on foreign oil. The cornerstone of congressional approval for construction of the Alaskan pipeline, the watchword for development of Alaska's North Slope over the last decade and the impetus for constructing new pipelines to carry that oil eastward can be summed up in one word—independence.

We are on the threshold of completing a project that will deliver 2 million barrels of domestically produced oil every day to U.S. refineries. That is 2 million barrels a day that we would otherwise be importing, at exorbitant prices, from the OPEC cartel. Are we now, in the eleventh hour, going to undermine that entire project by exporting nearly a quarter of that oil to Japan?

There is no longer any question of domestic utilization of Alaskan oil. The "glut" no longer exists. Every drop of oil being produced on the North Slope is being refined and consumed in U.S. markets. And, other U.S. refiners are actually looking for more. The explanation is simple. Alaskan oil at any price is a desirable alternative to spot market crude. Are we actually going to consider throwing away the economic and political independence that Alaskan oil offers?

The arguments offered by my colleague in support of his amendment are essentially three: Transportation cost savings;

balance of trade benefits; and the availability of foreign supply. It should be made clear that the export restriction contained in this bill does not prohibit the export of Alaskan crude. If an economic benefit to the consumer can be documented, the Congress could approve a swap. But the consumer benefits will not result from a savings in transportation costs. Those savings will be captured by the Alaskan producers and added to their recordbreaking earnings from the last three quarters. Further, the balance of trade savings that my colleague envisions from a swap cannot make up for the dollars lost due to the difference in price between Alaskan and Mexican crude. Alaskan oil is presently selling for approximately $22 a barrel. Mexican oil is priced over $23 a barrel and Mexico adds a 75-cents-a-barrel surcharge to offset the transportation cost savings derived from buying Mexican rather than Middle East crude. In short, a swap would result in a substantial loss in the balance of payments for each barrel we export.

Furthermore, Mr. Chairman, I doubt that anyone in this Chamber would dispute the fact that the only truly secure oil supply is a domestically produced supply. I am pleased that my colleague's amendment does not advocate the increased use of OPEC oil. Nevertheless, any exchange agreement would necessitate an increase in foreign oil imports.

While the obvious marketability of Mexican oil on the gulf coast makes that source preferable to OPEC supplies, the mere happenstance of common boundaries does not insure supply security. Canada has already announced its intention to eliminate oil exports to our northern tier refineries in the next few years. And Mexico, despite its willingness, was only able to fulfill 60 percent of its export contracts in May and June of this year due to production difficulties. Also, because of its overwhelming reliance on the United States for foreign trade, Mexico's Ministry of Patrimony and Industrial Development (under the firm policy direction of President Portillo), has developed a "2-year program" to reduce the U.S. share of Mexican oil exports from 80 to 60 percent. Such information not only casts legitimate doubts on the security of supply but raises the question of whether the proponents of a swap have bothered to obtain the Mexican Government's view of such a plan.

Finally, the question of national security as regards the transport of Alaskan oil has been raised. Mr. Chairman, the greatest threat to our national security—economically, politically, and militarily—is our continued dependence on other people's oil. We are racing against time in an attempt to free ourselves from that dangerously precarious position. To allow the export of Alaskan oil would undermine any progress we have made in freeing ourselves from the economic stranglehold of foreign producing nations. No defense budget of any size, no amount of troops or arsenal of missiles can protect this country from the threat of continued dependence. Don't talk to me of transportation savings, when the foundation of our economy is in the hands of foreign oil producers. Mr. Chairman, I urge the defeat of this amendment.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I would like to say to the gentleman, I oppose the Dannemeyer amendment. I am concerned about our trade balance, particularly with Japan. We are buying from Japan about $8 billion or $9 billion more than we sell and if they are able to buy American oil, they will liquidate some of that trade deficit. In other words, they will buy American oil and sell more Japanese products in our markets.

Mr. McKINNEY. Mr. Chairman, I would answer the gentleman simply this way. A trade deficit is a trade deficit. And, we would build a trade deficit of a minimum of $1 for every barrel of oil we exported to Japan, because Alaskan oil is currently selling at $22 a barrel. Mexican oil is selling at $23 a barrel, so we would have an automatic deficit of trade with the Mexican Government. It really makes very little difference where the deficit occurs. Uncle Sam would still be losing $1 per barrel of oil.

Mr. VANIK. But in addition to that, it would help the Japanese correct the imbalance of their commerce. They would be buying a very precious raw material from this country and coming back with other products to help to equalize the amount of the trade deficit.

Mr. McKINNEY. This gentleman coming from a highly technical State is not the slightest bit interested in helping the Japanese.

Mr. VANIK. Well, I am with the gentleman in opposing the amendment.

Mr. McKINNEY. I would suggest to the gentleman that once the Japanese allow the Ford Motor Co. and General Motors to have distribution plants and parts warehouses, I would be very interested in a more reliable trade relationship with them.

Mr. VANIK. In the meantime, I do not think we ought to alleviate the deficit by letting them have our oil.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from California.

The amendment does not really create any additional oil for the people of the United States—it does create some additional profit for some oil companies.

But the amendment has a side effect which is likely to blunt our efforts to solve a major trade crisis. The amendment will permit the Japanese to reduce their trade deficit with the United States by about $3 billion per year, thus camouflaging the fact that we still have enormous and serious structural trade problems with that nation. This amendment could be labeled "The Get Japan Off the Hook Amendment."

Last year, our trade deficit with Japan was $11.6 billion. This year, it will probably be about $8.8 billion, and I predict that in the future the deficit may again widen, because of the depreciation of the yen relative to the dollar and because of our domestic energy problems and inflation. In many areas, it is still difficult to impossible to sell American manufactured and agricultural goods in Japan. The staggering trade deficits of the past several years have helped put the public spotlight on Japanese trade barriers—and as a result some of those barriers have been dismantled.

The amendment of the gentleman from California will have the effect of lobbing billions of dollars off our trade deficit with Japan—even though we are making only slow and tedious progress in solving our manufactured and agricultural trade problems with Japan. The amendment will defuse attention from the need to solve our long-range problems with Japan; it will contribute further to turning America into a giant plantation of raw materials for Japan—a plantation that supplies soybeans, phosphate rock, and oil to keep the factories of Japan humming.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Massachusetts.

(Mr. CONTE asked and was given permission to revise and extend his remarks.)

Mr. CONTE. Mr. Chairman, I want to take this opportunity to commend the gentleman in the well and to associate myself with his remarks. I rise in opposition to this ill-conceived amendment.

Mr. Chairman, as the debate develops on the critical issue of extending and strengthening the American economy through increased exports, we must be equally cautious concerning exports crucial to our national security. One such area in which the risk in exporting exceeds opportunity is the exportation or "swapping" of Alaskan North Slope oil.

This country has watched its dependence upon imported oil rise from one-third to nearly one-half in less than 7 years. Our daily imports of foreign crude and product is nearly 8 million barrels per day. Our economic lifeblood has become a thick, black liquid which flows via tankers from the revolution-torn Middle East to our coastal ports. Today, this lifeline to our industrialized country's survival is tenuous at best. This great Nation cannot afford to lay bare its petroleum jugular vein to the Ayatollah Khomeini's of the world. Our vulnerability to the OPEC decisionmaking process will only be increased if we do not pass this strong piece of legislation which restricts the swapping of Alaskan oil.

The need to reaffirm our opposition to the exportation of our domestically produced Alaskan oil becomes greater with each increase in OPEC prices. Any swaps of oil will only increase our reliance on foreign imports by as much as 500,000 barrels per day.

In addition, it would eliminate any incentive for the establishment of a domestic delivery system of Alaskan crude to other sections of the country. It would also result in a loss of U.S. maritime jobs.

Let me quote a speech made by this country's Vice President MONDALE when he was a U.S. Senator on the issue of swapping Alaskan oil:

> It seems very strange to me that as we try to do everything we can to deal with the energy problems we have in America that the first significant thing we would do would be to approve a pipeline, the purpose of which is to export massive quantities of U.S. oil outside our borders. That is what has been admitted here. The answer is that we will swap U.S. oil for something else. What is that something else? That something else is the very Middle East oil we have trouble getting today. In other words, we would be back in the frying pan. It seems to me this is utterly suicidal for this country.

Mr. Chairman, I sincerely hope that this continues to reflect the attitude of our administration concerning this critical issue of national security. We must pass this measure with section 107 as reported out of the Committee on Foreign Affairs to insure that our national security will not be adversely affected.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. MCKINNEY) has expired.

(By unanimous consent, Mr. MCKINNEY was allowed to proceed for 3 additional minutes.)

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. MCKINNEY. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding. I want to commend the gentleman for his leadership on this issue. I want to say to the gentleman with regard to the balance of payments, the gentleman has answered that question very well.

I would like to add that there also would be an addition to the balance-of-payments deficit in that the cost of shipping the oil to Japan would be on the deficit side in that we would be using foreign-flag vessels and all that money would go outside of our economy.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

(Mr. OBERSTAR asked and was given permission to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Chairman, this is a national issue but with a profound regional impact for the Northern Tier States, particularly those in the western Great Lakes area. Winter is fast approaching in our region. Already the thermostats are set at 65 degrees in our homes in Chisholm, Minn. We turned the furnaces on over this past weekend when I was home. The people are beginning to wonder where is the oil coming from now that Canada has put Minnesota refineries on a month-to-month standby basis. Canada is going to decide 1 month how much oil its American market is going to get next month. It is intolerable. The Northern Tier States have a right and an obligation to seek a secure and continuous source of oil. The best place to get that is the North Slope.

The Northern Tier pipeline, the best available hope for assuring that supply of oil, is a matter on which the Interior Department and the President are going to have to make a judgment in the next month. If we allow swaps of oil as proposed in this amendment and undo the Wolpe amendment, we will destroy any possibility of getting that Northern Tier pipeline built. The very substantial commitments of capital required for that project will be turned to other sources.

We must support the committee and stick by its language. A swap of oil is nothing but a delay in the plans to assure a continuous flow of North Slope oil into the Northern Tier States which are so desperately dependent on it, whose oil refineries are built to accommodate this high-sulphur crude oil.

To make our area dependent on some other source of oil is unreasonable.

Mr. MCKINNEY. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I am happy to yield to the gentleman from Connecticut, who is the author of this language in the committee bill.

Mr. MCKINNEY. Mr. Chairman, I think the gentleman from Minnesota (Mr. OBERSTAR) made a most important statement when he said we must stick with the committee language, because the House has stated that the President can export Alaskan oil if it is economically advantageous if he comes to the Congress and gets our approval. The other body has stated the President can go ahead and do it and we must disapprove.

It is far more important, I think, that the President be forced to come to us and make the case.

I remember this clearly, because at the heeding of the chairman of the committee 2½ years ago I changed my amendment to just a 2-year prohibition because I was promised by the administration and promised by the oil companies that this problem would be solved. Yet here we sit again 2½ years later.

So I admire the gentleman's remarks about sticking completely, strictly, and absolutely with the committee's language, and I hope that never again will I have to confront my good friend, the chairman of the committee, and move that the House instruct, because I know that hurt me and hurt him 2½ years ago when I was forced to do that.

Mr. OBERSTAR. Mr. Chairman, I commend the gentleman's leadership on this important issue.

I raise one final consideration—the effect the amendment would have on employment. If we accept this amendment, we deny the American seaman the benefits of transporting this oil. The Jones Act requires that cargo be moved between American ports by American ships. Shipment of our oil to Japan would not be bound by that requirement. Instead of reducing the balance of payments between the United States and Japan, this oil will help Japan build its industrial might even further.

Mr. Chairman, to insure the movement of vitally needed oil to America's agricultural and industrial heartland, it is vitally important to stick with the committee's language.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Chairman, I would like to commend the gentleman from Minnesota (Mr. OBERSTAR) on his remarks and associate myself with them.

During the time I have been in the Congress I have spent much time on the Northern Tier pipeline issue. During the past several weeks the Departments of Agriculture and Energy have pointed out the Northern Tier pipeline proposal to which the gentleman referred is the best and most dependable method for bringing energy to the Northern Tier States, which include, of course, the gentleman's State and my own State of Iowa.

In order to maintain that agricultural heartland and provide heating oil for us in the winter, I think it is essential that we have that energy lifeline. Certainly we are much more anxious to be dependent upon Alaskan oil than we are to be dependent on foreign sources of oil coming through the Gulf of Mexico.

So, Mr. Chairman, I agree with the gentleman from Minnesota (Mr. OBERSTAR), and I commend him for his remarks.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman from Iowa (Mr. TAUKE) for his contribution, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Chairman, I think a little history will serve many of my friends in this body to understand where this prohibitive clause came from as far as exporting oil or swapping oil with Japan is concerned. It originally arose in the pipeline bill, the bill to build the Alaskan pipeline.

The intent was to have an Alaskan line, an American line, with American people and with American oil. That was my amendment. The amendment was adopted by the committee, it was adopted by this House, and it has been in place ever since.

But unfortunately, because of the inactivity of this administration, there have been no ways provided of transporting oil to the Midwest and the east coast. There have been none. In fact, we have what we call in the Committee on Interior and Insular Affairs a fast-track provision, and the administration conveniently excluded the possibility of expediting the process of either the Foothills project, which would take care of the problem of my good friend, the gentleman from Minnesota (Mr. OBERSTAR), or the Northern Tier.

So what we are faced with today, right now, is that there is a considerable quantity of oil going through the Panama Canal. As it goes through the Panama Canal, that raises the price from $2 for transportation costs, as a swap would allow, to $7 or $9, thus increasing the cost to the consumer by a considerable amount.

What this amendment does is, for a short period of time, to agree to an ex-

change of oil, thus giving the consumer a break and also giving the State of Alaska—and I will say this without any reservation—a good return on its oil in the way of royalty. That is the parochial position I am put in today.

But I would like to bring this to the attention of the Members again: The gentleman from Minnesota (Mr. OBERSTAR) hit the nail right on the head: It is absolutely mandatory that we build a transportation system from the West to the East. If we do not, this country puts itself further into the hole of dependency upon the OPEC nations, because, let me say to my good friends, the oil of this Nation is in the West. It is off the Santa Barbara Channel, it is off the Gulf of Alaska, it is in the Bering Sea of Alaska, it is in the Beaufort Sea of Alaska, and it is in the lands of Alaska.

I say that, although this body did not see the wisdom of allowing the majority of the oil fields in Alaska to be developed. That came about from their lack of knowledge and by listening to those who would convey half truths and conveniently put aside 65 percent of the oil potential in Alaska. I hope that will be rectified in the Senate so that we can have that oil after Prudhoe Bay goes dry in 1985.

I hope also that we will have accomplished a transportation system under an aggressive administration so that the West, the Midwest, and the East are no longer dependent upon the OPEC nations.

The amendment offered by the gentleman from California (Mr. DANNEMEYER) is a short-term amendment, but it gives us an opportunity to give the consumer a break. It gives the consumer who is paying a dollar a gallon a break, and it gives him a chance possibly to have fuel prices back at the price they were prior to the shortage we just experienced this past year.

Mr. Chairman, I am confident in my own mind this would be a short-term solution. But let us keep in mind that the secret of this is the long-term solution, a solution that involves providing a transportation system from the West to the East.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Washington.

Mr. BONKER. Mr. Chairman, the gentleman may not have been here the other day when I entered into a colloquy with my friend, the gentleman from Michigan, that stated we have a refining capacity in the Antilles and in the Virgin Islands, and that 1 refinery there now produces up to 700,000 barrels a day and another can produce 900,000 a day. That is excess capacity now in existence, and it could be retrofitted to the Alaskan sour crude.

Mr. YOUNG of Alaska. It is sad to say, though, that it is going through the Panama Canal, it is sad to say that with the vote on the Panama Canal issue that we had, the situation is very unsure politically, and it is sad to say that it still costs the consumer $9 for transportation to get the oil to the Virgin Islands and the Bahamas. Those are facts; that is not just hearsay.

So if we want to argue the economics of the situation, the swap or the exchange is better for the consumer over the short term. Long range, though, if we look at the long-range program, it would be best to have a pipeline or pipelines built through the northern tier and the southern part of California so we could have the Alaskan crude come into the Midwest and the east coast refineries.

Mr. BONKER. But it seems to me that the language in the Wolpe amendment emphasizes the cost benefit to the consumer. So I think that is an important ingredient in the bill, and I would hate to see that stricken.

The CHAIRMAN. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Texas, who is an expert in the field about which we speak.

Mr. KAZEN. Mr. Chairman, I thank my colleague, the gentleman from Alaska (Mr. YOUNG). Let me ask the gentleman one question, because I want to get this straight in my mind.

We are going to swap Alaskan oil for Japanese oil, and the Japanese get that oil where?

Mr. YOUNG of Alaska. It is my understanding they have worked out a deal with Mexico and also with the OPEC nations.

Mr. KAZEN. Mr. Chairman, let me ask, what kind of a price f.o.b. the United States will the Japanese oil that come to us bring the Japanese?

Mr. YOUNG of Alaska. Mr. Chairman, I cannot truthfully answer the gentleman's question. I cannot answer the question on the exact price because I have not seen it.

Mr. KAZEN. Mr. Chairman, getting into the complexities of the swap and right down to the nuts and bolts, what are we swapping in the way of money?

Mr. YOUNG of Alaska. We are swapping the transportation cost of $2 a barrel to Japan versus the $9 a barrel it costs to bring the oil through the Panama Canal.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield? Perhaps I can answer the question.

Mr. KAZEN. Yes; I would like to get an answer. I would like an explanation of this.

I want to know the present transportation cost as opposed to what kind of transportation cost there will be for Japanese oil f.o.b. the United States.

Mr. YOUNG of Alaska. It is $2 to $3 versus $9. That is my understanding.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, let me give the gentleman my understanding at the current moment, and I want to remind the Members that the "current moment" does not last very long in the oil business.

□ 1640

The current situation is that we would sell Alaskan oil at somewhere in the neighborhood of $22 a barrel. We would receive Mexican oil at somewhere in the neighborhood of $23, plus a 75-cent charge they add. That would be $1.75 basic balance of trade deficit with each barrel exported.

True, the transportation costs are more. However, the transportation costs at the present moment are being borne on Jones bottom ships and being paid to American shipping companies and American workers and, therefore, are self-contained.

However, none of these savings on transportation would go to the American consumer. This is my argument to the gentleman. I understand the gentleman's parochial interest, and I have no desire to put him down; he runs from the State of Alaska. But the only transportation savings would go to the oil companies. Sohio has already announced a 302-percent increase in profits and expect to increase their production shortly.

The CHAIRMAN. The time of the gentleman from Alaska has expired.

(On request of Mr. McKINNEY and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. YOUNG of Alaska. Mr. Chairman, if I may respond, I have made my statement very clear. This is a parochial position. We are losing a considerable amount of money in the State of Alaska because of the cost factor of shipping our oil. That may not make many of the Members have bleeding hearts, but as a reality we are dealing with a nonrenewable resource that is being consumed by the people of the lower 48, not the Alaskan people, and we believe we should be reimbursed justifiably. It was my amendment that prohibited the export of Japanese oil. If there had been some aggressive leadership in this administration to build the transportation system—that has not occurred.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield, I just wanted to echo the gentleman's sentiments. I think we ought to have a mode of transportation for this oil from the west coast into the United States. I do not want to name names, but the State of California's chief executive raised a lot of questions and put a lot of stumbling blocks in the building of that pipeline into Texas that would have brought the stuff back up here into the Midwest and into the East.

Mr. YOUNG of Alaska. Maybe we will have some brownouts and people will recognize the problem we have.

Mr. KAZEN. Yes; whatever it takes, I hope it happens. But still and all, I want to make sure that if Japan is to get any oil from Mexico, that Mexico agree to deliver it through the pipelines to the United States; otherwise, we will not be able to make any kind of an agreement with Japan or anybody else. Somewhere in the long run it would be detrimental to our consumers. I can understand the

gentleman's point of view, and if I were in his place I would do the same thing.

Mr. McKINNEY. Mr. Chairman, if the gentleman will yield, let me back up the gentleman from Alaska in his point. When this whole discussion went forth, when the Alaskan pipeline was built, when we did put in fast-track legislation into the Alaskan pipeline we listened to the oil companies' promise that they would immediately set about building a distribution system. That has not happened.

The CHAIRMAN. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

(On request of Mr. McKINNEY and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. McKINNEY. If the gentleman will yield further, finally, after millions and millions of dollars being spent on a pipeline and approvals, we see a sudden attraction of interest on the part of the oil companies on a distribution system. And why, one has to ask himself? Because June 22, 1979, they knew they could get away with their little ploy.

Mr. YOUNG of Alaska. If I may reclaim some of my time to sort of refute what the gentleman said, that is not all necessarily the fact. I can say that they tried to establish that line early in the ball game, but because of 710 permits, of the uncertainty, they reached a point it was no longer economically feasible to build a line for the rest of Prudhoe Bay. Again I must remind my good friend that we do not know if there are going to be any more Prudhoe Bays, and put most of the potential oil fields onshore off limits. So Sohio had to pull out. But they could make—and I make no bones about that—a better return on their dollar by the Japanese swap, but for a short period of time.

Mr. McKINNEY. Would not the gentleman agree that we would have to keep their feet to the fire in order to build this distribution system?

Mr. YOUNG of Alaska. You cannot keep the oil companies' feet to the fire. You have to keep this administration and those States who have impeded the process of a distribution system for the rest of the United States.

Mr. McKINNEY. I agree with the gentleman totally.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

Mr. Chairman, I do not come from Alaska; I come from New Jersey. We are not talking about keeping feet to the fire. The only feet to the fire are going to be the consumers, and that is the truth. Surely, we should have had that pipeline through to Midland, Tex., but we did not get it, because of obstruction of one kind or another, as the gentleman from Texas has alluded to. And we know why. It is commonsense that if you can get an equal amount of oil from Mexico or Venezuela cheaper, landing in Texas and in Louisiana refineries cheaper, we can still insist upon the pipelines being built. Certainly there is going to be trouble, as we know it, as to which route they take. But we are buying now oil from Canada to feed our midwestern refineries, and we should feed them with Alaskan oil. There is no doubt. But this does not have to be forever. Permits take several years.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I had hoped we had finally put this issue to rest. As a matter of fact, I am surprised there is still discussion of the issue when it seems so obvious to me, anyway, that when we have an oil shortage, we should be using our Alaskan oil at home. That feeling has been particularly emphasized by the recent strong public reaction to the sale of oil products to Iran.

Since I have studied the issue of exports of Alaskan oil for some time, all the testimony I have heard and conversations I have had have convinced me that the tougher the provision on Alaskan oil that we can enact the better off we will be.

Let me give you just a couple of reasons: First, any pipeline that is being proposed from the west coast to the middle of this country, with or without a Northern Tier pipeline, I think, will never be built unless it is very clearly understood that it is going to be extremely difficult, if not impossible, to export oil. I am well aware that Sohio has announced abandonment of its plans. But that does not mean they—or some new applicant—cannot decide to go ahead with it or some other pipeline. The Northern Tier pipeline is still very much in the picture.

Second, probably the best argument that was used by the administration, if you believed it, was that if we did not export oil it would preclude an increase in oil production in Alaska.

Very interestingly, early May, Atlantic Richfield Oil Co., which is one of the Alaskan producers, announced it is going to increase its production by 25 percent—300,000 barrels a day—in 1980. Company officials also said they anticipated no serious problems in transporting and distributing the oil to refineries in the continental United States, although transportation under current conditions would be relatively expensive. The present surplus of Alaskan crude oil that cannot be refined on the west coast is shipped through the Panama Canal to refineries in the Southeast.

With regard to the Panama Canal, I am surprised that some of the people who support the administration generally and who support the Panama Canal Treaty are lining up on the wrong side of this issue. Because, if we should export Alaskan oil, it would cut down on the tolls for the Panama Canal, which is not one of the things that has been forecast. And then, American taxpayers are going to have to either dig that money up, tolls are going to have to be increased, or we are going to have a serious problem with Panama. If tolls are increased as a result of export of oil, it will have a very serious adverse effect on the countries of South America, especially western South America. It could easily do more harm than any good from the canal treaty.

Let me mention another thing. Everyone was assured when the Alaskan pipeline was built that the oil would not be exported; it would be used in this country. Substantial investments were made by the American maritime industry to build ships to carry that extra volume of oil from Alaska. The only savings that there really are in shipping oil to Japan is by using foreign ships. If you use foreign ships, that certainly does not contribute to the favorable balance of trade because the money would then go outside of the country, and the considerable investment of the American maritime industry would be lost, or at least substantially impaired.

I would cite another point as well. Many of us met with Prime Minister Ohira, of Japan, when he was in the United States. We are putting considerable pressure on the Japanese to increase their imports of our good, agricultural products as well as manufactured goods. If we sell them hundreds of millions of dollars worth of oil it certainly is going to cut down on their interest in buying more from us. They will be able to say, "We have improved the balance of trade," and, of course, the United States will be left having to buy that oil from someone else—with no change then in our overall balance of trade.

Many environmentalists are opposed to exporting Alaskan crude oil. They have also given further consideration to the question of building new refineries. Their conclusion is that compared to older, polluting refineries, new large refineries using the latest technology are preferable for meeting our domestic oil needs.

This is especially true to meet the requirements of refining our heavy crude resources. Without a prohibition on the export of Alaskan oil, there will be little incentive to proceed with changing existing refineries to be able to process Alaskan oil or the heavy crude which is so abundant in California. It will be interesting to see if the environmental groups continue to endorse such programs once they are actually proposed.

Those who argue that we should allow export of Alaskan oil because there is not enough refinery capacity on the west coast ignore the new refinery being built in Alaska itself. The Alpetco refinery will have the capacity to process 150,000 barrels of petroleum per day, and of that amount, 75,000 barrels of unleaded gasoline will be available for California. That refinery should provide one more incentive for increasing production of Alaskan crude oil.

It is noteworthy that although we were advised several years ago that total west coast refinery capacity was 500,000 barrels per day, such refining capability is now some 830,000 barrels per day.

It is also important to remember that the language in this bill does not automatically prohibit export of Alaskan oil. The conditions to be met are very

stringent, to be sure, but they do provide that if benefits can be passed on to the consumer and the refiner, then exports are possible. If those provisions can be met, then a trade could be a good thing. However, until those conditions are met, we should not export Alaskan oil.

Probably the best reason for not exporting Alaskan oil is that if we do not prevent it—or at least preserve that option—if we do not take strong action, I think that the credibility of the American people in the government of the United States in relation to oil—and how we handle oil—is going to be even more seriously eroded than it already is—if such a thing is possible. I do not know how you go from zero to minus. But that will happen, I can guarantee you, especially when you remember public reaction to export of oil products to Iran.

The bottom line is that if the Congress of the United States is going to have anything to say about oil policy in this country, I think we had better preserve the strong provisions concerning export of Alaskan crude oil that do give the Congress the final say.

□ 1650

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto cease in 7 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was granted will be recognized for 1 minute each.

(By unanimous consent, Mr. BINGHAM, Mr. LEE, and Mrs. FENWICK yielded their time to Mr. DANNEMEYER.)

The CHAIRMAN. The gentleman from California (Mr. DANNEMEYER) is recognized for 4 minutes.

Mr. DANNEMEYER. Mr. Chairman, the argument has been made that we should not lift this restriction, because it will continue to put heat under the effort to build a pipeline from the north slope of Alaska across Canada in order to bring energy to the northern tier States of our Union. Let us examine that for a moment.

We had a representative of the Department of Energy come before the Committee on Interstate and Foreign Commerce, on which I served some 3 months ago, and tell us that because of land use restrictions and environmental restrictions in this country, we probably cannot build another refinery.

So if we are thinking about building or bringing oil to the northern tier States, we are going to have to ask very clearly and concisely what are we going to do after we get it there. If we think we are going to build a refinery in some place in the northern part of the United States, I do not think that objective has a realistic chance of being attained.

Let me make my position very clear. I am prepared, as a Member of this House, to vote the legislation to build that pipeline, because I think it is badly needed.

But until we get it built, what are we going to do with the oil that we hope to obtain from increased production in the north slope of Alaska?

Currently we are producing 1.2 million barrels a day. It has been estimated that the capacity of that pipeline is some 2 million barrels a day, and we have to ask the question, where is that additional oil going to be used in our system?

Right now, the west coast capacity is some 850,000 barrels a day. About 350,000 barrels a day is going through the Panama Canal, and we are in the ridiculous position today of tankers passing one another in the Panama Canal, one going to Japan from the east coast of Mexico, because Mexico has no shipping port on its west coast.

Now, in 1974, when this amendment first came into our law prohibiting Alaskan oil from being shipped to any place besides the United States, Mexico had 10.09 billion barrels in reserve. In that year it was producing 551,000 barrels a day.

Today, Mexico has 46.5 billion barrels of reserve and is producing 1.6 million barrels per day.

The point is, there are changed circumstances in the last 5 years. These changed circumstances require us at this time on a temporary basis to look at this amendment very seriously because all it says is that we will permit the export of Alaska oil to a foreign country to the extent we are able to obtain it from a contiguous foreign nation, which by definition almost exclusively would be Mexico.

The Mexican oil would be shipped from the east coast to the refineries in the Gulf States of this country, and the oil from Alaska could go to Japan, to the extent of maybe 300,000 barrels a day. That works out to a significant saving to consumers, based on $2 per day of saving and transportation costs of about $219 million a year.

It would improve our balance of payments with Japan to the extent, assuming we would sell 300,000 barrels a day, of $2.19 billion per year. That is a significant reduction of our adverse balance of payments with Japan. It is something I think we should achieve. I ask for an "aye" vote on the amendment.

(Mr. GORE asked and was given permission to revise and extend his remarks.)

Mr. GORE. Mr. Chairman, I want to congratulate my colleague for offering this amendment. I do not support this amendment, but I think it is an extremely close question. I am glad he has brought the question up for debate.

I have studied this very carefully. I think there is a great deal of merit in the position he is advocating if we had a true free market in the world trade of oil. I think the amendment surely should pass, but I have decided a "no" vote is indicated on this amendment for the following reasons:

First, the consumers would not benefit at all from the savings effected by the swap.

Second, the increased revenues to the oil companies would not result in additional incentives to step up production in Alaska because the recent OPEC increases which apply to Alaskan production have already increased that incentive enormously.

Third, I think we need to maintain the incentive in this country to reconfigure our refineries to handle the heavy crude oil and create an incentive to build the PacTex pipeline or Northern Tier pipeline so we can get this oil into the parts of the country where we can refine it.

Fourth, I think that a "no" vote is indicated. It is a worthy amendment, regardless.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I want to commend my colleagues from California, too, for offering this amendment, although I do not agree with it. I think it should be defeated. I think he has performed a useful purpose in bringing this issue. I think it is an issue worthy of debate. I think there are two main reasons why the amendment should be defeated.

□ 1700

One is that at this time, as I mentioned in my remarks a little while ago, the credibility of the U.S. Government with regard to oil policy is very low. The shipment of oil products in very limited amounts to Iran certainly demonstrated that. I think if we were to embark on a program of exporting Alaskan oil to Japan, while we say we have a shortage, would be very damaging to our credibility and our efforts to get an energy policy into the works.

But I think really the bottom line is the one I mentioned before, and that is if we are going to be involved, we as Members of Congress are going to be involved in the important decisions relating to energy, then I think we certainly should preserve that option with regard to this very important issue. I urge a "no" vote.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Thank you, Mr. Chairman.

I want to correct a possible misunderstanding about Northern Tier pipelines in remarks made earlier. It is not a matter of building new refineries in the upper Midwest. The refineries exist. The question is the cutoff of Canadian crude. The Canadians have put the upper Midwest on a month-to-month allocation.

We have to build a Northern Tier pipeline. We must bring excess Alaskan crude oil to the upper Midwest refineries, which are built to accommodate that high-sulfur sour crude. They can continue operating; we can continue to feed the industrial heartland of the United States.

The decision on building the Northern Tier pipeline is hardly a month away; the Interior Department is about ready to make its decision. The President has the recommendation of former Secretary Schlesinger and of Secretary Bergland to go ahead with the Northern Tier pipeline project. The decision we make today on the question of swapping Alaskan crude can decide whether or not we go

ahead with the Northern Tier pipe. I say defeat the Dannemeyer amendment, build the Northern Tier pipeline.

The CHAIRMAN. The question is on the amendment offered gy the gentleman from California (Mr. DANNEMEYER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 61, noes 340, not voting 33, as follows:

[Roll No. 506]

AYES—61

Alexander
Anthony
Archer
Ashley
Aspin
Badham
Bingham
Bolling
Brown, Calif.
Collins, Tex.
Conable
Corman
Crane, Daniel
Crane, Philip
Dannemeyer
Derwinski
Dornan
Duncan, Oreg.
Erlenborn
Evans, Del.
Fenwick
Forsythe
Frenzel
Gingrich
Goldwater
Hagedorn
Hansen
Heftel
Jones, Okla.
Kelly
Kemp
Kindness
LaFalce
Lehman
Lent
McDonald
McEwen
Madigan
Martin
Michel
Nedzi
Paul
Pritchard
Rhodes
Rudd
Satterfield
Scheuer
Schulze
Shuster
Simon
Smith, Iowa
Steed
Symms
Thomas
Van Deerlin
Whittaker
Wilson, Bob
Wirth
Wyatt
Young, Alaska
Zablocki

NOES—340

Abdnor
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashbrook
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Devine
Dicks
Dingell
Dixon
Dodd
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Matsul
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Robinson
Roe
Rostenkowski
Roth
Rousselot
Roybal
Royer
Runnels
Russo
Sabo
Santini
Sawyer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wolpe
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zeferetti

NOT VOTING—33

Addabbo
Anderson, Ill.
Biaggi
Carter
Chisholm
Corcoran
Deckard
Dickinson
Diggs
Donnelly
Fazio
Ferraro
Flood
Gibbons
Holtzman
Lott
Mathis
Mikva
Murphy, Ill.
Myers, Ind.
Quillen
Roberts
Rodino
Rose
Rosenthal
Stockman
Thompson
Treen
Waxman
Wilson, C. H.
Winn
Wolff
Wright

□ 1710

Messrs. ASHLEY, ALEXANDER, LEHMAN, and NEDZI changed their votes from "no" to "aye."

Messrs. REUSS, HUCKABY, ABDNOR, and ECKHARDT changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1720

Mr. BINGHAM. Mr. Chairman, I move to strike the last word.

(Mr. BINGHAM asked and was given permission to revise and extend his remarks.)

Mr. BINGHAM. Mr. Chairman, there have been some assertions during debate on this bill to the effect that other House committees share the jurisdiction over this legislation. I simply want to state for the record that there can be no such interpretation of the rules. The rules are absolutely clear. Under rule X, clause 1 (h)(14), jurisdiction over export controls is granted solely to the Committee on Foreign Affairs. That has been the case since 1975. I have examined the jurisdiction of the other committees that have an interest in this legislation and there is no reference in the rules of any kind to export controls or other issues touched upon by H.R. 4034. So there should be no doubt that the Foreign Affairs Committee has sole legislative jurisdiction over export controls, including controls for the purpose of national security which is an essential part of the legislation now before the committee. It is true that one particular bill in this Congress, H.R. 3216, was coreferred to another committee as well as to the Foreign Affairs Committee. The only difference between that bill and the export control bills referred solely to the Foreign Affairs Committee was a provision authorizing funds for the Department of Defense. Such an authorization, of course, is not within the jurisdiction of the Foreign Affairs Committee. But including such a provision in a bill dealing with export controls does not give another committee jurisdiction over export controls, and should not be so interpreted.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of this bill.

I wish to take this opportunity to congratulate my colleagues for the excellent work they have done in shaping this legislation to protect our national security interests for exports of military critical technologies and at the same time to provide for greater specificity for the export licensing process, thereby giving business a clearer definition of what to expect in the administration of export controls.

I would also like to point out those provisions which were amended and which reflect the changes I have been seeking since the markup process began in subcommittee last April.

The sections on "findings" and "policy" clarify the necessity of export controls for national security purposes.

The role of the Department of Defense is reaffirmed in the military critical technologies approach to export controls for national security purposes for development of the control list and for review of license applications for national security reasons.

Notwithstanding foreign availability, national security interests will be preserved under export controls and reexport controls will be maintained.

The legislation, as amended, requires negotiations to eliminate foreign availability of critical technologies.

The role of the technical advisory committees is made more explicit with respect to their functions in assisting the Secretary of Defense in decisions related to national security controls.

I would like to add that with regard to the diversion of technology by a consignee to significant military use, this

legislation prevents further exports until such diversion is terminated and provides that additional steps as necessary be taken to prevent further military use of such diverted technology.

I also believe that the foreign policy provisions of this bill make a substantial improvement in the existing law and will help to get rid of some of the uncertainty in the business community. Specifically, the provision for congressional review will provide a role for Congress on this important subject.

With the balance this House has struck in preserving the national security interests of our country in exports of technology as well as providing greater certainty to business, I urge my colleagues to vote for this legislation.

Mr. BONKER. Mr. Chairman, I move to strike the last word.

(Mr. BONKER asked and was given permission to revise and extend his remarks.)

Mr. BONKER. Mr. Chairman, I rise in support of this bill.

H.R. 4034, the Export Administration Act Amendments of 1979 is the product of several months of work and many more months of study by the Subcommittee on International Economic Policy and Trade. I have the honor of being the ranking majority member of that subcommittee and worked very hard on this legislation. I have always believed that the encouragement of exports must be a national objective; that our export policy must be affirmative. The Export Administration Act is basically a negative instrument. It contains sections where controls are imposed on exports because of national security or foreign policy or short supply considerations. It also contains other sections where licenses for exports are denied for various reasons.

We faced several monumental problems in trying to refrom the export control policy. Our biggest dilemma was how to reconcile the conflicting tendencies between a policy that promoted exports and a policy which maintained those controls that would insure our national security. In my judgment we have achieved that fine balance.

As the subcommittee chairman, Mr. BINGHAM, said recently:

> In the world in which we live, we cannot afford to relax our controls on technology exports which our adversaries could use to reduce the military technology gap which is the key to the superior performance of U.S. weapons systems. At the same time, considering the unprecedented trade deficit which is sapping our economic strength and vitality, we cannot afford to continue controlling products which are being exported by other advanced free-world countries. Nor can we afford inefficiencies and delays in the licensing system which act as needless barriers to exports.

That was another problem we had to resolve. There is no doubt that delays in the licensing decisions have been a major cause for our export loss. Foreign purchasers have come to look upon us as an unreliable supplier because the licensing policy has often been unclear. I believe this bill goes a long way in resolving the licensing issue.

H.R. 4034 is probably one of the most complicated pieces of legislation to come before the Congress in a long time. I participated in the hearings and drafting of new amendments with great care. I was especially interested in finding a way which would give us an export policy that gave the people full economic benefits and yet preserved our dwindling resources. My red cedar amendment is one good example. This is a unique situation that warranted special attention.

Studies have shown that at the present rate of cutting this rare species (redcedar) will be extinct in 8 to 10 years and it takes over 300 years to grow. Because faster growing species such as Douglas fir produce greater economic return, foresters generally do not replace these large, very old western redcedar trees with cedar seedlings. This amendment applies only to logs harvested from State and Federal lands (excluding Indian lands). Virtually all redcedar logs currently harvested and exported from Federal and State lands are from my State. By banning the exports of unprocessed redcedar logs from State and Federal lands we will help to slow down consumption and we will help to preserve a precious nonrenewable resource.

A second good example is the section in H.R. 4034 which strengthens the existing restrictions on the export or swap of Alaska oil. This provision requires the President to demonstrate to the Congress that exporting Alaskan oil will benefit the American consumer. It will also insure that the Congress, as well as the administration, plays a major role in deciding whether or not Alaskan oil should be exported.

Mr. Chairman, let me reiterate, H.R. 4034 is a responsible bill, it addresses all relevant issues, fully protecting our national security while increasing our competitiveness in the world market.

The CHAIRMAN. If there are no further amendments, under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes, pursuant to House Resolution 286, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 737) to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Export Administration Act of 1979".

FINDINGS

SEC. 2. The Congress makes the following findings:

(1) The ability of United States citizens to engage in international commerce is a fundamental concern of United States policy.

(2) Exports contribute significantly to the balance of trade, employment, and production of the United States.

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

(4) Exports of goods or technology without regard to whether they make a significant contribution to the military potential of individual countries or combinations of countries may adversely affect the national security of the United States.

(5) The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.

(6) Uncertainty of export control policy can curtail the efforts of American business to the detriment of the overall attempt to improve the trade balance of the United States and to decrease domestic unemployment.

(7) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

(8) It is important that the administration of export controls imposed for national (and goods which contribute significantly to the transfer of such technology) which (and gods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to the national security of the United States.

DECLARATION OF POLICY

SEC. 3. The Congress makes the following declarations:

(1) It is the policy of the United States to minimize uncertainties in export control policy and to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by

the President to be against the national interest.

(2) It is the policy of the United States to restrict the ability to export only after full consideration of the impact on the economy of the United States and only to the extent necessary—

(A) to prevent the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States;

(B) to further significantly the foreign policy of the United States or to fulfill its declared international obligations; and

(C) to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.

(3) It is the policy of the United States (A) to apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to encourage observance of a uniform export control policy by all nations with which the United States has defense treaty commitments.

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

(5) It is the policy of the United States—

(A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person;

(B) to encourage and, in specified cases, require United States persons engaged in the export of goods and technology or other information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person; and

(C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular goods or technology or other information to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies and private industry.

(7) It is the policy of the United States to use export controls, including license fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make every reasonable effort to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before resorting to the imposition of controls on exports from the United States. No action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies.

(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls.

(9) It is the policy of the United States to cooperate with other nations with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States or to the security of those countries with which the United States has defense treaty commitments.

AUTHORITY

SEC. 4. (a)(1) To the extent necessary to carry out the policies set forth in section 3 of this Act, the President, by rule or regulation, may prohibit or curtail the export of any goods or technology, or for the purpose of section 6 information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. To the extent necessary to achieve effective enforcement of this Act, these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person. In curtailing exports to carry out the policy set forth in section 3(2)(C) of this Act, the President is authorized and directed to allocate a portion of export licenses on the basis of factors other than a prior history of exportation.

(2)(A) In administering export controls for national security purposes as prescribed in section 3(2)(A) of this Act, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may deem appropriate. The President shall review not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, United States policy toward individual countries to determine whether such policy is appropriate in light of the factors specified in the preceding sentence.

(B) Rules and regulations under this subsection to carry out the policy set forth in section 3(2)(A) of this Act may provide for denial of any request or application for authority to export goods or technology from the United States, its territories and possessions, which would make a significant contribution to the military potential of any nation or combination of nations threatening the national security of the United States if the President determines that their export could prove detrimental to the national security of the United States. In administering export controls for national security purposes as prescribed in section 3(2)(A) of this Act, priority shall be given to preventing the effective transfer to countries to which exports are controlled for national security purposes of goods and technology critical to the design, development, production, or use of existing or potential military systems, including weapons, command, control, communications, intelligence systems, and other military capabilities, such as countermeasures, which would make a significant contribution to the military potential of any nation or nations which could prove detrimental to the national security of the United States. The Secretary of Defense shall bear primary responsibility for identifying such militarily critical goods and technologies. Taking this fully into account, the Secretary of Commerce, in consultation with the Secretary of Defense, shall review and revise not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, export controls maintained for national security purposes pursuant to this Act for the purpose of insuring that such controls cover and (to the maximum extent consistent with the purposes of this Act) are limited to such critical goods and technologies and the mechanisms through which they may be effectively transferred. Rules and Regulations shall reflect the difficulty of devising effective safeguards which would prevent a nation which poses a threat to the United States from diverting critical technologies to military use, the difficulty in devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the reexport of critical technologies from noncontrolled countries to nations that pose a threat to the security of the United States. Such rules and regulations shall not assume that effective safeguards can be devised.

(C) Export controls maintained for foreign policy purposes shall expire on December 31, 1979, or one year after imposition, whichever is later, unless extended by the President in accordance with this subparagraph and subparagraph (D). Any such extension and any subsequent extension shall not be for a period of more than one year. When imposing, increasing, or extending export controls for foreign policy purposes pursuant to the authority provided by this Act, the President shall consider—

(i) alternative means to further the foreign policy purposes in question;

(ii) the likelihood that foreign competitors will join the United States in effectively controlling such exports;

(iii) the probability that such controls will achieve the intended foreign policy purpose;

(iv) the effect of such controls on United States exports, employment, and production, and on the international reputation of the United States as a supplier of goods and technology;

(v) the reaction of other countries to the imposition or enlargement of such export controls by the United States; and

(vi) the foreign policy consequences of not imposing controls.

(D) Whenever the President imposes, increases, or extends export controls for foreign policy purposes pursuant to authority provided by this Act, he shall inform the Congress of his action within thirty days and, to the extent consistent with the national interest, make public a report specifying his conclusions with respect to each of the matters considered as provided in subparagraph (C) of this paragraph and indicating how such export controls will further significantly the foreign policy of the United States or fulfill its declared international obligations.

(E) The President shall not impose export controls for foreign policy or national security purposes on the export from the United States of goods or technology which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States. With respect to controls imposed for national security purposes, a finding of foreign availability which is the basis of a decision to grant a license for, or to remove a control on the export of a good or tech-

nology, shall be made in writing and be supported by reliable evidence, such as a scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability. Such sworn representations without adequate independent corroboration shall not constitute reliable evidence. Where, in accordance with this paragraph, export controls are imposed for foreign policy or national security purposes notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. Whenever the President has reason to believe goods or technology subject to export control for national security purposes by the United States may become available to controlled countries from other countries, the President shall promptly initiate negotiations with the governments of such countries to prevent such foreign availability. In an instance in which such negotiations fail to prevent or secure the removal of such foreign availability and the President requires additional authority to take effective action toward that end, the President shall report fully to the Congress and where appropriate recommend measures to secure the removal of such foreign availability.

(b)(1) Except as otherwise provided in this Act, the Secretary of Commerce shall reorganize the Department of Commerce as necessary to effectuate the policies set forth in this Act. Subject to the authority of the Secretary of Defense under subsection (a)(2)(B) of this section, the Secretary of Commerce shall prepare and maintain a list of goods and technology the export of which from the United States, its territories and possessions, is prohibited or regulated pursuant to this Act. The Secretary shall issue regulations providing for review of such list not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, in order to carry out the policies of this Act, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments with or without oral presentation. Such regulations shall further provide that as part of such review, there shall be an assessment of the availability from sources outside the United States, its territories and possessions, of goods and technology in significant quantities and comparable in quality to those items included on such list. The provisions of this paragraph relating to revisions and changes in such list and assessment of foreign availability apply also to the functions of the Secretary of Defense under subsection (a)(2)(B) of this section. In order to further effectuate the policies set forth in this Act, the Secretary shall establish within the Office of Export Administration a capability for monitoring and gathering information on the foreign availability of goods and technology subject to export control. Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, consistent with the protection of intelligence sources and methods, shall furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration and such Office upon request or where appropriate shall furnish the information it gathers and receives to such departments and agencies.

(2) The Secretary of Commerce shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Secretary shall meet regularly with representatives of the business sector in order to obtain their views on export control policy and the foreign availability of goods and technology.

(c)(1)(A) To effectuate the policies set forth in this Act, the Secretary of Commerce shall establish at least the following three types of licenses in addition to such other types as the Secretary may deem appropriate:

(i) A validated license.

(ii) A qualified general license.

(iii) A general license.

(B) As used in this subsection—

(i) a "validated license" is a license authorizing the export of goods or technology pursuant to an application by an exporter in accordance with rules and regulations issued pursuant to this Act. A validated license may be required for the export of goods and technology subject to multilateral controls in which the United States participates or as determined pursuant to paragraph (2) of this subsection;

(ii) a "qualified general license" is a license authorizing the export to any destination of goods or technology, or a class of goods or technology, subject to the conditions contained in rules and regulations issued pursuant to this Act, including conditions pertaining to approval of the particular consignee and end-use of the goods or technology. The goods and technology subject to control by qualified general license shall be determined pursuant to paragraph (2) of this subsection; and

(iii) a "general license" is a license authorizing the export of a class of goods or technology without specific approval if the export is effected in accordance with the conditions contained in rules and regulations issued pursuant to this Act.

(2) To effectuate the policies set forth in section 3 of this Act, it is the intent of Congress that the use of validated licenses be limited to the greatest extent possible to the control of the export of goods and technology which are subject to multilateral controls in which the United States participates. To the extent that the President determines that the policies set forth in section 3 of this Act require the control of the export of other goods and technology, or more stringent controls than the multilateral controls, he will report to the Congress not later than six months after the date of enactment of this Act, and thereafter in each annual report, the reasons for the need to impose, or to continue to impose, such controls and the estimated domestic economic impact on the various industries affected by such controls. It is further the intent of Congress that export controls which exceed the multilateral controls shall be effected to the greatest extent possible consistent with the purposes of this Act by means of qualified general licenses.

(3) Not later than sixty days after the date of enactment of this Act, the Secretary of Commerce shall establish procedures for the approval of goods and technology that may be exported pursuant to a qualified general license.

(d)(1)(A) All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this subsection.

(B) It is the intent of Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other Government agency.

(C) To the extent necessary, the Secretary shall seek information and recommendations from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. These departments and agencies shall cooperate fully in rendering such information and recommendations.

(2) Within ten days after the date on which any export license application is received, the Secretary shall—

(A) send the applicant an acknowledgement of the receipt of the application and the date of the receipt;

(B) submit to the applicant a written description of the procedures required by this subsection, the responsibilities of the Secretary and of other agencies with respect to the application, and the rights of the applicant;

(C) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this subsection;

(D) determine whether it is necessary to submit the application to any other agency and, if such submission is determined to be necessary, inform the applicant of the agency or agencies to which the application will be referred; and

(E) determine whether it is necessary to submit the application to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, if so, inform the applicant of this requirement.

(3) In each case in which the Secretary determines that it is not necessary to submit an application to any other agency for its information and recommendations, a license shall be formally issued or denied within ninety days of the receipt of a properly completed application.

(4) In each case in which the Secretary determines that it is necessary to submit an application to any other agency for its information and recommendations, the Secretary shall, within thirty days of the receipt of a properly completed application—

(A) submit the application together with all necessary analysis and recommendations of the Department of Commerce concurrently to other appropriate agencies, and

(B) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation to be submitted to such other agencies with respect to such application for the purpose of describing the export in question in order to determine whether such documentation accurately describes the proposed export.

(5)(A) Any agency to which an application is submitted pursuant to paragraph (4) shall submit to the Secretary, within thirty days after its receipt of the application, the information or recommendations requested with respect to such application. Except as provided in subparagraph (B), any such agency which does not submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the Secretary to have no objection to the approval of such application.

(B) If the head or acting head of any such agency notifies the Secretary before the expiration of the time period provided in subparagraph (A) for submission of its recommendations that more time is required for review by such agency, such agency shall have an additional thirty-day period to submit its recommendations to the Secretary. If such agency does not so submit its recommendations within the time period pre-

scribed by the preceding sentence, it shall be deemed by the Secretary to have no objection to the approval of such application.

(6)(A) Within ninety days after receipt of other agency recommendations, as provided for in paragraph (5), the Secretary shall formally issue or deny a license. All agency reviews of preliminary decisions and appeals to the appropriate authorities set forth in this Act shall be accomplished within that ninety-day period. In deciding whether to issue or deny a license, the Secretary shall take into account any recommendation of an agency advising on the application in question. In cases where the Secretary receives conflicting recommendations, the Secretary shall, within the ninety days provided for in this subsection, take such action as may be necessary to resolve such conflicting recommendations.

(B) In cases where the Secretary receives questions or negative considerations or recommendations from other agencies advising on an application, the Secretary shall, to the maximum extent consistent with the national security or foreign policy of the United States, inform the applicant of the specific questions raised and any negative considerations or recommendations made by an agency, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations.

(C) In cases where the Secretary has determined that an application should be denied, at the time of the formal denial, the applicant shall be informed, in writing within five days of such decision of the statutory basis for denial, the policies set forth in section 3 of the Act which would be furthered by denial, and, to the extent consistent with national security and foreign policy, the specific considerations which led to the denial, and of the availability of appeal procedures. In the event decisions on license applications are deferred inconsistent with the provisions of this subsection, the applicant shall be informed in writing within five days of such deferral. The Secretary shall establish appropriate procedures for applicants to appeal such deferrals or denials.

(D) If the Secretary determines that a particular application or set of applications is of exceptional importance and complexity, and that additional time is required for negotiations to modify the application or applications, or otherwise to arrive at a decision, the Secretary may extend any time period prescribed in this subsection. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor.

(7)(A) Notwithstanding any other provision of this subsection, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

(B) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the Secretary, and confirm in writing the types and categories of transactions which should be reviewed by him in order to make a determination referred to in subparagraph (A). Whenever a license or other authority is requested for the export to any country to which exports are controlled for national security purposes of goods or technology within any such type or category, the Secretary shall notify the Secretary of Defense of such request, and the Secretary may not issue any license or other authority pursuant to such request before the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this subparagraph and, not later than thirty days after notification of the request, shall—

(i) recommend to the President that he disapprove any request for the export of any goods or technology to any such country if he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

(ii) notify the Secretary that he would recommend approval subject to specified conditions; or

(iii) recommend to the Secretary that the export of goods or technology be approved.

If the President notifies the Secretary, within thirty days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country.

(C) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this paragraph, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this subsection.

(D) Whenever the President exercises his authority under this paragraph to modify or overrule a recommendation made by the Secretary of Defense or exercises his authority to modify or overrule any determination made by the Secretary of Defense pursuant to section 4(a)(2)(B) or 4(b)(1) of this Act with respect to list of goods and technologies controlled for national security purposes, the President shall promptly transmit to the Congress a statement indicating his decision, together with the recommendation of the Secretary of Defense.

(8) In any case in which an application, which has been finally approved under paragraph (4), (7), or (8) of this subsection, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such paragraphs, but the Secretary shall notify the applicant of the approval (and the date of such approval) of the application by the Secretary subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review.

(9) The Secretary and any agency to which any application is referred under this subsection shall keep accurate records with respect to all applications considered by the Secretary or by any such agency, including the factual and analytical basis for the decision, together with any dissenting recommendations received from any agency.

(10) The Secretary shall establish appropriate procedures for applicants to appeal denials of export licenses. In any case where the absence of a license approval exists because of agency action or inaction that clearly conflicts with the procedures, standards, or policies of this Act, the applicant may file a petition with the Secretary requesting that such action or inaction be brought in conformity with the appropriate provisions of this Act. When such petition is filed, the Secretary shall determine the validity of the petition and, if valid, shall take appropriate corrective action.

(e)(1) To effectuate the policy set forth in section 3(2)(C) of this Act, the Secretary of Commerce shall monitor exports, and contracts for exports, of any goods (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy, or any sector thereof. Such monitoring shall commence at a time adequate to insure that data will be available which is sufficient to permit achievement of the policies of this Act, and shall include the gathering of data concerning the volume of exports indicated under all contracts providing for the export of such goods following the date of the filing of the petition under section 8(a)(1). Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection and in the last two sentences of section 11(c) of this Act.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each item monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports.

(f) In imposing export controls to effectuate the policy stated in section 3(2)(C) of this Act, the President's authority shall include but not be limited to, the imposition of export license fees.

(g)(1) Notwithstanding any other provision of this Act and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), no domestically produced crude oil transported by pipeline over right-of-way granted pursuant to the requirements of section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653) (except any such crude oil which (A) is exported, for the purpose of effectuating an exchange in which the crude oil is exported to an adjacent foreign state to be refined and consumed therein, in exchange for the same quantity of crude oil being exported from that state to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in paragraph (2)(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) the President makes and publishes an express finding that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) will, within three months following the initiation of such exports or exchanges, result in (a) acquisition costs to the refiners being lower than the acquisition costs such refiners would have to pay for the domestically produced crude oil in the absence of such an export of exchange and (b) that not less than 75 per centum of the savings shall be reflected in reduced wholesale and retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contract which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(iv) are clearly necessary to protect the national interest; and

(v) are in accordance with the provisions of this Act; and

(B) the President reports such finding to the Congress and the report is approved in accordance with paragraph (3).

(3) The report of the findings of the President required by paragraph (2) shall be considered approved, and shall take effect at the end of the first period of sixty calendar days of continuous session of the Congress after such report is submitted, unless the House of Representatives and the Senate adopt a resolution during such period stating that it does not favor such findings. For the purposes of this paragraph—

(A) continuity of a session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment for more than three days to a day certain are excluded in computing the sixty-day period.

(4) A resolution under paragraph (3) shall be considered in accordance with the procedures established by section 551 of the Energy Policy and Conservation Act.

(5) Notwithstanding the foregoing provisions of this subsection or any other provision of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act: *Provided*, That the President promptly notifies Congress of each such agreement.

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

(i)(1) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by him to be in excess of the requirements of the domestic economy, except to the extent the President determines that such exercise of authority is required to effectuate the policies set forth in sections 3(2)(A) or (B) of this Act.

(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)(C) 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, finds (A) that such commodities will eventually be exported, (B) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (C) storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (D) 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 paragraph.

(3)(A) The Secretary of Commerce shall transmit to the House of Representatives and the Senate a summary of any proposed exercise of the authority conferred by this section with regard to agricultural commodities.

(B)(i) Except as provided in subparagraph (ii), such proposal shall not become effective if within sixty calendar days of continuous session of the Congress after the date of transmittal of the proposal to the Congress, one House agrees to a resolution of disapproval and at the end of thirty additional such calendar days after the date of transmittal of the resolution of disapproval to the other House of Congress, such other House has not passed a resolution disapproving such resolution.

(ii) Notwithstanding subparagraph (i), if at the end of sixty calendar days of continuous session of the Cogress after the date of transmittal of the proposal to the Congress, neither House has agreed to a resolution of disapproval concerning such proposal, and the committee to which a resolution of disapproval concerning such proposal has been referred has not reported and has not been discharged from further consideration of such a resolution, such proposal shall be effective at the end of such sixty-day period or such later date as may be prescribed by such proposal.

(C) For the purposes of this chapter—

(i) continuity of session is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of calendar days of continuous session.

(D) The provisions of this section are enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this paragraph; and they supersede other rules only to the extent that they are inconsistent therewith;

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House; and

(iii) (I) resolutions of disapproval, and resolutions disapproving a resolution of disapproval in the other House shall, upon introduction, be immediately referred by the presiding officer of the Senate or of the House of Representatives to the appropriate standing committee of the Senate or the House of Representatives;

(II) if the committee to which a resolution has been referred does not report a resolution within forty-five calendar days of continuous session of Congress after the date of transmittal of the proposal to which such resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution; and

(III) such motion to discharge must be supported by one-fifth of the Members of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after a resolution of disapproval has been reported with respect to the same proposal); and debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designess.

An amendment to the motion is not in order.

(E)(i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, consideration of a resolution of disapproval shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

(ii) When the committee has reported or has been discharged from further consideration of a resolution with respect to a proposal, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order.

(iii) Debate on the resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not in order. An amendment to, or motion to recommit the resolution is not in order.

(j) Nothing in this Act or the rules or regulations thereunder shall be construed to require authority or permission to export, except where required by the President to effect the policies set forth in section 3 of this Act.

(k) The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may deem appropriate, except that no authority under this Act may be delegated to, or exercised by, any official of any department or agency the head of which is not appointed by and with the advice and consent of the Senate. The President may not delegate or transfer his power, authority, and discretion to overrule or modify any recommendation or decision made by the Secretary of Commerce, the Secretary of Defense, and Secretary of State pursuant to the provisions of this Act.

(l)(1) Any United States firm, enterprise, or other non-governmental entity which, for commercial purposes, enters into an agreement with an agency of a government in another country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement calling for the encouragement of technical cooperation and is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report such agreement to the Secretary of Commerce.

(2) The provisions of this subsection shall not apply to colleges, universities, or other educational institutions.

(3) The Secretary of Commerce is authorized to issue such rules and regulations as are necessary to implement the provisions of this subsection.

(m) The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for negotiations with other countries regarding their cooperation in restricting the export of goods and technologies whose export should be restricted pursuant to section 3(9) of this Act, as authorized under section 4(a)(1) of this Act, including negotiations on the basis of approved administration positions as to which goods and technologies should be subject to multilaterally agreed export re-

strictions and what conditions should apply for exceptions from those restrictions.

(n) The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee (hereinafter in this subsection referred to as the "Committee") with a view toward reaching—

(A) an agreement to publish the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such list, and all changes thereto;

(B) an agreement to hold periodic meetings of such governments with high-level representation from such governments, for the purpose of providing guidance on export control policy issues to the Committee;

(C) an agreement to modify the scope of the export controls imposed by agreement of the Committee to a level accepted and enforced by all governments participating in the Committee; and

(D) an agreement on more effective procedures for enforcing the export controls agreed to pursuant to subparagraph (C).

(o) In order to assure that requirements for national security controls are removed when no longer necessary, the Secretary of Commerce shall adopt regulations which eliminate unnecessary delay in implementing decisions reached, according to law, to remove or relax such controls. Consideration shall also be given by the Secretary, where appropriate, to removing site visitation requirements for goods and technology which are removed from the above-mentioned list unless objections described in this subsection are raised.

(p)(1) Notwithstanding any other provision of this Act, no horse may be exported by sea from the United States, its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under paragraph (2) of this subsection.

(2) The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue rules and regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

(q)(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand, and such other countries as the President shall designate consistent with the purposes of this subsection 502(b) of the Foreign Assistance Act of 1961, as amended.

DISAPPROVAL OF LICENSE FOR THE EXPORT OF GOODS OR TECHNOLOGY TO COUNTRY WHICH SUPPORTS ACTS OF INTERNATIONAL TERRORISM

SEC. 5. (a) The Secretary of Commerce shall approve no license for the export of goods or technology to any country with respect to which the Secretary of State has made the following determinations:

(1) that such country has demonstrated a pattern of support for acts of international terrorism, and

(2) that the exports in question would make a significant contribution to the military potential of such country or would otherwise enhance its ability to support acts of international terrorism.

(b) The President may suspend the applicability of paragraph (a) of this section with respect to any particular country or any particular transaction if he finds that the national interests so require.

FOREIGN BOYCOTTS

SEC. 6. (a)(1) For the purpose of implementing the policies set forth in section 3(5)(A) and (B), the President shall issue rules and regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of rules and regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotting country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary of Commerce.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by rules and regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Rules and regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms on or after June 22, 1978, other than with respect to carriers or route of shipment as may be permitted by such rules and regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycottting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such rules and regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his own use, including the performance of contractual services within that country, as may be defined by such rules and regulations.

(3) Rules and regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) Rules and regulations pursuant to this subsection shall be issued not later than ninety days after the date of enactment of this section and shall be issued in final form and become effective not later than one hundred and twenty days after they are first issued, except that (A) rules and regulations prohibiting negative certification may take effect not later than one year after the date of enactment of this section, and (B) a grace period shall be provided for the application of the rules and regulations issued pursuant to this subsection to actions taken pursuant to a written contract or other agreement entered into on or before May 16, 1977. Such grace period shall end on December 31, 1978, except that the Secretary of Commerce may extend the grace period for not to exceed one additional year in any case in which the Secretary finds that good faith efforts are being made to renegotiate the contract or agreement in order to eliminate the provisions which are inconsistent

with the rules and regulations issued pursuant to paragraph (1).

(6) This Act shall apply to any transaction or activity undertaken, by or through a United States or other person, with intent to evade the provisions of this Act as implemented by the rules and regulations issued pursuant to this subsection, and such rules and regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b)(1) In addition to the rules and regulations issued pursuant to subsection (a) of this section, rules and regulations issued under section 4(a) of this Act shall implement the policies set forth in section 3(5).

(2) Such rules and regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) shall report that fact to the Secretary of Commerce, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the policies of that section. Such person shall also report to the Secretary of Commerce whether he intends to comply and whether he has complied with such request. Any report filed pursuant to this paragraph after the date of enactment of this section shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any goods or technology to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary of Commerce shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies set forth in section 3(5) of this Act.

(c) The provisions of this section and the rules and regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, and any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

SEC. 7. (a) Any person who, in his domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a commodity historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a commodity, may transmit a petition of hardship to the Secretary of Commerce requesting an exemption from such controls in order to alleviate any unique hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Secretary of Commerce shall prescribe and shall contain information demonstrating the need for the relief requested.

(b) Not later than thirty days after receipt of any petition under subsection (a), the Secretary of Commerce shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Secretary's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Secretary deems appropriate.

(c) For purposes of this section, the Secretary's decision with respect to the grant or denial of relief from unique hardship resulting directly or indirectly from the imposition of controls shall reflect the Secretary's consideration of such factors as—

(1) whether denial would cause a unique hardship to the petitioner which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Secretary will take into account:

(A) ownership of material for which there is no practicable domestic market by virtue of the location or nature of the material;

(B) potential serious financial loss to the applicant if not granted an exception;

(C) inability to obtain, except through import, an item essential for domestic use which is produced abroad from the commodity under control;

(D) the extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

(E) possible adverse effects on the economy (including unemployment) in any locality or region of the United States; and

(F) other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular commodity; and

(2) the effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

In all cases, the desire to sell at higher prices and thereby obtain greater profits will not be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the petitioner.

PETITIONS FOR MONITORING OR CONTROLS

SEC. 8. (a)(1) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes any material or commodity for which an increase in domestic prices or a domestic shortage has or may have a significant adverse effect on the national economy or any sector thereof may transmit a written petition to the Secretary of Commerce requesting the imposition of export controls, or the monitoring of exports, or both, with respect to such material or commodity.

(2) Each petition shall be in such form as the Secretary of Commerce shall prescribe and shall contain information in support of the action requested. The petition shall include information reasonably available to the petitioner indicating (A) that there has been a significant increase over a representative period in exports of such material or commodity in relation to domestic supply, and (B) that there has been a significant increase in the price of such material or commodity under circumstances indicating that the price increase may be related to exports.

(b) Within fifteen days after receipt of any petition described in subsection (a), the Secretary of Commerce shall cause to be published a notice in the Federal Register. The notice shall include (1) the name of the material or commodity which is the subject of the petition, (2) the Schedule B number of the material or commodity as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (3) notice of whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material or commodity, and (4) notice that interested persons shall have a period of thirty days commencing with the date of publication of such notice to submit to the Secretary of Commerce written data, views, or arguments, with or without opoprtunity for oral presentation. At the request of the petitioner or any other entity described in subsection (a)(1) with respect to the material or commodity which is the subject of the petition or at the request of any entity representative of the producers or exporters of such material or commodity, the Secretary shall conduct public hearings with respect to the subject of the petition, in which event the thirty-day period shall be extended to forty-five days.

(c) Within forty-five days after the end of the thirty-day or forty-five-day period described in subsection (b) or within seventy-five days of publication of the petition in the Federal Register, whichever is the later, the Secretary of Commerce shall—

(1) determine whether to impose monitoring or controls or both on the exportation of such material or commodity; and

(2) publish in the Federal Register a detailed statement of the reasons for such determination.

(d) Within fifteen days following a decision under subsection (c) to impose monitoring or controls on the exportation of a material or commodity, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within thirty days following the publication of such notice, and after considering any public comments, the Secretary shall publish and implement final regulations.

(e) For the purposes of publishing notices in the Federal Register and the scheduling of public hearings, the Secretary shall have the authority to consolidate petitions and responses thereto with respect to the same or related commodities.

(f) If a petition has been fully considered under this section and a notice has been published with respect to a particular commodity or group of commodities and in the absence of significantly changed circumstances, the Secretary shall have authority to determine that a petition for monitoring or control of such commodity or commodities does not merit the full consideration mandated under this section.

(g) The procedures and time limits set forth in this section shall take precedence over any review undertaken at the initiative of the Secretary.

(h) The Secretary shall have the authority to impose monitoring or controls on a temporary basis during the period following the filing of a petition under subsection (a)(1) and the Secretary's determination under subsection (c) if the Secretary deems such action to be necessary to effectuate the policy set forth in section 3(2)(C) of this Act. If such authority is used the Secretary shall afford interested persons an opportunity to submit written comments thereon and such comments shall be considered by the Secretary in making the determination required under subsection (c) and in the development of any final regulations.

(i) The authority under this section shall not be construed to affect the authority of the Secretary of Commerce under section 4(e)(1) or any other provision of this Act.

(j) The provisions of this section shall not apply to any agricultural commodity.

(k) Nothing contained in this section shall be construed to preclude submission on a confidential basis to the Secretary of Commerce of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, nor consideration of such information by the Secretary in reaching decisions required under this section. The provisions of this subsection are not intended to change the applicabil-

ity of section 552(b) of title 5, United States Code.

CONSULTATION AND STANDARDS

SEC. 9. (a) In determining what shall be controlled or monitored under this Act, and in determining the extent to which exports shall be limited, any department, agency, or official making these determinations shall seek information and advice from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. Such departments and agencies shall fully cooperate in rendering such advice and information. Consistent with considerations of national security, the President shall seek information and advice from various segments of private industry in connection with the making of these determinations. In addition, the Secretary of Commerce shall consult with the Secretary of Energy to determine whether, in order to effectuate the policy stated in section 3(2)(C) of this Act, monitoring or controls are necessary with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.

(b)(1) In authorizing exports, full utilization of private competitive trade channels shall be encouraged insofar as practicable, giving consideration to the interests of small business, merchant exporters as well as producers, and established and new exporters, and provision shall be made for representative trade consultation to that end. In addition, there may be applied such other standards or criteria as may be deemed necessary by the head of such department, or agency, or official to carry out the policies of this Act.

(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy stated in section 3(2)(C) of this Act, the Secretary of Commerce shall include in the notice published in the Federal Register an invitation to all interested parties to submit written comments within fifteen days from the date of publication of the impact of such restrictions and the method of licensing used to implement them.

(c)(1) Upon written request by representatives of a substantial segment of any industry which produces goods or technology which are subject to export controls or are being considered for such controls because of their significance to the national security of the United States, or whenever he deems appropriate to further the purposes of this Act, the Secretary of Commerce shall appoint a technical advisory committee for any grouping of such goods or technology which he determines is difficult to evaluate because of questions concerning technical matters, worldwide availability and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and government, including the Departments of Commerce, Defense, and State, and, when appropriate, other Government departments and agencies. No person serving on any such committee who is representative of industry shall serve on such committee for more than four consecutive years.

(2) It shall be the duty and function of the technical advisory committees established under paragraph (1) to advise and assist the Secretary of Commerce and any other department, agency, or official of the Government of the United States to which the President has delegated power, authority, and discretion under section 4(e) with respect to actions designed to carry out the policy set forth in section 3 of this Act. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. Nothing in this subsection shall prevent the Secretary from consulting, at any time, with any person representing industry or the general public regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary of Commerce, to present evidence to such committees.

(3) Upon requests of any member of any such committee, the Secretary may, if he determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by him in connection with his duties as a member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the Chairman, unless the Chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this Act. Each such committee shall be terminated after a period of two years, unless extended by the Secretary for additional periods of two years. The Secretary shall consult each such committee with regard to such termination or extension of that committee.

(5) To facilitate the work of the technical advisory committees, the Secretary of Commerce, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security and foreign policy, pertaining to the reasons for the export controls which are in effect or contemplated for the grouping of goods or technology with respect to which that committee furnishes advice.

(6) Whenever a technical advisory committee certifies to the Secretary of Commerce that goods or technology are available in fact from sources outside the United States in sufficient quantity and of comparable quality so as to render United States export controls ineffective in achieving the purposes of this Act, and provides adequate documentation for such certification, the Secretary of Commerce shall investigate and report to the technical advisory committee on whether the Secretary concurs with the certification. If the Secretary concurs, the Secretary shall submit a recommendation to the President who shall act in accordance with section 4(a)(2)(E) of this Act.

(d) The Secretary of Defense shall have the same authorities and responsibilities as the Secretary of Commerce under paragraphs (1) through (5) of subsection (c) in order to carry out his responsibilities under this Act.

VIOLATIONS

SEC. 10. (a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.

(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or $100,000, whichever is greater, or imprisoned not more than ten years or both.

(c)(1) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(2)(A) The authority under this Act to suspend or revoke the authority of any United States person to export goods or technology may be used with respect to any violation of the rules and regulations issued pursuant to section 5(a) of this Act.

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the rules and regulations issued pursuant to section 6(a) of this Act may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the rules and regulations issued pursuant to section 6(a) of this Act shall be made available for public inspection and copying.

(d) The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a 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.

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

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

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

(1) the availability of other administrative or judicial remedies with respect to

violations of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

SEC. 11. (a) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

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

(c) Except as otherwise provided by the third sentence of section 6(b)(2) and by section 10(c)(2)(C) of this Act, information obtained prior to June 30, 1980, under this Act, which is deemed confidential, including Shippers' Export Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552(b)(3)(B) of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary of Commerce determines that the withholding thereof is contrary to the national interest. Information obtained after June 30, 1980, under this Act may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning, license applications under this Act shall be withheld from public disclosure unless the release of such information is determined by the Secretary of Commerce to be in the national interest. Enactment of this subsection shall not affect any judicial proceeding commenced under section 552 of title 5, United States Code, to obtain access to boycott reports submitted prior to October 31, 1976, which was pending on May 15, 1979; but such proceeding shall be continued as if this Act had not been enacted. Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under section 4(b), shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.

(d) In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 12. (a) Except as provided in section 10(c)(2), the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) It is the intent of Congress that, to the extent practicable, all regulations imposing controls on exports under this Act be issued in proposed form with meaningful opportunity for public comment before taking effect. In cases where a regulation imposing controls under this Act is issued with immediate effect, it is the intent of Congress that meaningful opportunity for public comment also be provided and that the regulation be reissued in final form after public comments have been fully considered. The Secretary shall include in the annual report required by this Act a detailed accounting of the issuance of regulations under the authority of this Act, including an explanation of each case in which regulations were not issued in accordance with the first sentence of this subsection.

ANNUAL REPORT

SEC. 13. (a) The Secretary of Commerce shall make an annual report to the President and to the Congress on the implementation of this Act.

(b) Each annual report shall include an accounting of—

(1) actions taken by the President and the Secretary of Commerce to effect the antiboycott policies set forth in section 3(5) of this Act;

(2) organizational and procedural changes instituted and any reviews undertaken in furtherance of the policies set forth in this Act;

(3) efforts to keep the business sector of the Nation informed about policies and procedures adopted under this Act;

(4) any changes in the exercise of the authorities of section 4(a) of this Act;

(5) the results of review of United States policy toward individual countries called for in section 4(a)(2)(A);

(6) the results, in as much detail as may be included consistent with the national security and the need to maintain the confidentiality of proprietary information, of the actions, including reviews and revisions of export controls maintained for national security purposes, required by section 4(a)(2)(B);

(7) action taken pursuant to section 4(b)(1), including changes made in control lists and assessments of foreign availability;

(8) evidence demonstrating a need to impose export controls for national security or foreign policy purposes in the face of foreign availability as set forth in section 4(a)(2)(E);

(9) the information contained in the reports required by section 4(e)(2) of this Act, together with an analysis of—

(A) the impact of the economy and world trade of shortages or increased prices for commodities subject to monitoring under this Act or section 812 of the Agricultural Act of 1970;

(B) the worldwide supply of such commodities; and

(C) actions being taken by other nations in response to such shortages or increased prices;

(10) delegations of authority by the President as provided for under section 4(k) of this Act;

(11) the progress of negotiations under section 4(n) of this Act;

(12) the number and disposition of export license applications taking more than ninety days to process pursuant to section 4(d) of this Act;

(13) consultations undertaken with technical advisory committees pursuant to section 9(c) of this Act the use made of advice given, and the contribution such committees made in carrying out the policies of this Act;

(14) violations of the provisions of this Act and penalties imposed pursuant to this Act; and

(15) any revisions to reporting requirements prescribed in section 11(d).

(c) The heads of other involved departments and agencies shall fully cooperate with the Secretary of Commerce in providing all information required by the Secretary of Commerce to complete the annual reports.

DEFINITIONS

SEC. 14. As used in this Act—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

(2) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

(3) the term "goods" means any article, material, supply or manufactured product, including inspection and test equipment, and excluding technical data; and

(4) the term "technology" means the information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves.

EFFECTS ON OTHER ACTS

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

(b) The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(c) On October 1, 1979, the Mutual Defense Assistance Control Act of 1951, as amended (22 U.S.C. 1611–1613d), is superseded.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. (a) Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the pur-

poses of this Act for any fiscal year commencing on or after October 1, 1980, unless previously and specifically authorized by legislation.

(b) There are authorized to be appropriated to the Department of Commerce $8,000,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs) for fiscal year 1980 to carry out the purposes of this Act, of which $1,250,000 shall be available only for purposes of establishing and maintaining the capability to make foreign availability assessments called for by section 4(b)(1).

(c) There are authorized to be appropriated to the Department of Defense $2,500,000 for fiscal year 1980 to carry out its functions under subsection 4(a) of this Act.

EFFECTIVE DATE

SEC. 17. (a) This Act takes effect upon the expiration of the Export Administration Act of 1969.

(b) All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 or section 6 of the Act of July 2, 1940 (54 Stat. 714), or the Export Administration Act of 1969 shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act.

TERMINATION DATE

SEC. 18. The authority granted by this Act terminates on September 30, 1983, or upon any prior date which the President by proclamation may designate.

MOTION OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BINGHAM moves to strike out all after the enacting clause of the Senate bill, S. 737, and to insert in lieu thereof the provisions of the bill, H.R. 4034, as passed, as follows:

TITLE I—EXPORT ADMINISTRATION

SHORT TITLE

SECTION 101. This title may be cited as the "Export Administration Act Amendments of 1979".

FINDINGS

SEC. 102. Section 2 of the Export Administration Act of 1969 (50 U.S.C. App. 2401) is amended to read as follows:

"FINDINGS

"SEC. 2. The Congress makes the following findings:

"(1) Exports are important to the economic well-being of the United States.

"(2) A large United States trade deficit weakens the value of the United States dollar, intensifies inflationary pressures in the domestic economy, and heightens instability in the world economy.

"(3) Poor export performance is an important factor contributing to a United States trade deficit.

"(4) It is important for the national interest of the United States that both the private sector and the Federal Government place a high priority on exports, which would strengthen the Nation's economy.

"(5) The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.

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

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

"(8) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

"(9) The export of goods or technology without regard to whether such export makes a significant contribution to the military potential of individual countries may adversely affect the national security of the United States.

"(10) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of technology (and goods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combinations of countries which would be detrimental to the national security of the United States.

"(11) Minimization of restrictions on exports of agricultural commodities and products is of crtical importance to the maintenance of a sound agricultural sector, to achievement of a positive balance of payments, to reducing the level of federal expenditures for agricultural support programs, and to United States cooperation in efforts to eliminate malnutrition and world hunger.".

POLICY

SEC. 103. (a) Section 3 of the Export Administration Act of 1969 (50 U.S.C. App. 2402) is amended by amending paragraph (2) to read as follows:

"(2) It is the policy of the United States to use export controls to the extent necessary (A) to restrict the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the national security of the United States; (B) to restrict the export of goods and technology where necessary to further significantly the foreign policy of the United States or to fulfill its international responsibilities, including to restrict exports to countries which violate the principles of the Monroe Doctrine; and (C) to restrict the export of goods where necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.".

(b) Such section is further amended—

(1) in paragraph (5) by striking out "articles, materials, supplies, or information" and inserting in lieu thereof "goods, technology, or other information";

(2) in paragraph (6) by striking out "articles, materials, or supplies, including technical data or other information," and inserting in lieu thereof "goods, technology, or other information"; and

(3) by adding at the end thereof the following new paragraph:

"(9) It is the policy of the United States to cooperate with other nations with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries, which would prove detrimental to the security of the United States and of those countries with which the United States has defense treaty commitments.

"(10) It is the policy of the United States that export trade by United States citizens be given a high priority and not be controlled except when such controls (A) are essential to achieve fundamental national security, foreign policy, or short supply objectives, (B) will clearly achieve such objectives, and (C) are administered consistent with basic standards of due process. It is also the policy of the United States that such controls shall not be retained unless their efficacy is annually established in detailed reports available to both the Congress and to the public, to the maximum extent consistent with the national security and foreign policy of the United States.

"(11) It is the policy of the United States to minimize restrictions on the export of agricultural commodities and products.".

EXPORT LICENSES; TYPES OF CONTROLS

SEC. 104. (a) The Export Administration Act of 1969 is amended—

(1) by redesignating section 4 as section 7;

(2) by repealing sections 5 and 9;

(3) by redesignating sections 6, 7, 8, 10, 11, 12, 13, 14, and 15 as sections 11, 12, 13, 14, 16, 17, 18, 19 and 20, respectively; and

(4) by redesignating sections 4A and 4B as sections 8 and 9, respectively.

(b) The Export Administration Act of 1969 is amended by adding after section 3 the following new sections:

"EXPORT LICENSES; COMMODITY CONTROL LIST; LIMITATION ON CONTROLLING EXPORTS

"SEC. 4. (a) TYPES OF LICENSES.—The Secretary may, in accordance with the provisions of this Act, issue any of the following export licenses:

"(1) A validated license, which shall be a document issued pursuant to an application by an exporter authorizing a specific export or, under procedures established by the Secretary, a group of exports, to any destination.

"(2) A qualified general license, which shall be a document issued pursuant to an application by the exporter authorizing the export to any destination, without specific application by the exporter for each such export, of a category of goods or technology, under such conditions as may be imposed by the Secretary.

"(3) A general license, which shall be a standing authorization to export, without application by the exporter, a category of goods or technology, subject to such conditions as may be set forth in the license.

"(4) Such other licenses, consistent with this subsection and this Act, as the Secretary considers necessary for the effective and efficient implementation of this Act.

"(b) COMMODITY CONTROL LIST.—The Secretary shall establish and maintain a list (hereinafter in this Act referred to as the 'commodity control list') consisting of any goods or technology subject to export controls under this Act.

"(c) RIGHT OF EXPORT.—No authority or permission to export may be required under this Act, or under any rules or regulations issued under this Act, except to carry out the policies set forth in section 3 of this Act.

"NATIONAL SECURITY CONTROLS

"SEC. 5. (a) AUTHORITY.—(1) In order to carry out the policy set forth in section 3(2)(A) of this Act, the President may, in accordance with the provisions of this section, prohibit or curtail the export of any goods or technology subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of Defense, and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses described in section 4(a) of this Act.

"(2)(A) Whenever the Secretary makes any revision with respect to any goods or technology, or with respect to the countries or

destinations, affected by export controls imposed under this subsection, the Secretary shall publish in the Federal Register a notice of such revision and shall specify in such notice that the revision relates to controls imposed under the authority contained in this section.

"(B) Whenever the Secretary denies any export license under this subsection, the Secretary shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this section. Further, the Secretary shall include in the notice to the applicant of denial of such license what, if any, modification in or restrictions on the goods or technologies for which the license was sought would allow such export to be compatible with controls implemented under this section, or shall indicate in such notice which departmental officials familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restrictions if appropriate.

"(3) In issuing rules and regulations to carry out this section, particular attention shall be given to the difficulty of devising effective safeguards to prevent a country that poses a threat to the security of the United States from diverting critical technologies to military use, the difficulty of devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the reexport of critical technologies from other countries to countries that pose a threat to the security of the United States. Such regulations shall not be based upon the assumption that such effective safeguards can be devised.

"(b) POLICY TOWARD INDIVIDUAL COUNTRIES.—In administering export controls under this section, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status, but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may consider appropriate. The President shall periodically review United States policy toward individual countries to determine whether such policy is appropriate in light of factors specified in the preceding sentence.

"(c) CONTROL LIST.—(1) The Secretary shall establish and maintain, as part of the commodity control list, a list of all goods and technology subject to export controls under this section. Such goods and technology shall be clearly identified as being subject to controls under this section.

"(2) The Secretary of Defense and other appropriate departments and agencies shall identify goods and technology for inclusion on the list referred to in paragraph (1). Those items which the Secretary and the Secretary of Defense concur shall be subject to export controls under this section shall comprise such list. If the Secretary and the Secretary of Defense are unable to concur on such items, the matter shall be referred to the President for resolution.

"(3) The Secretary shall issue regulations providing for continuous review of the list established pursuant to this subsection in order to carry out the policy set forth in section 3(2)(A) and the provisions of this section, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments with or without oral presentation. Such regulations shall further provide that, as part of such review, an assessment be made of the availability from sources outside the United States of goods and technology comparable to those controlled for export from the United States under this section.

"(d) MILITARY CRITICAL TECHNOLOGIES.—(1) The Congress finds that the national interest requires that export controls under this section be focused primarily on military critical technologies, and that export controls under this section be implemented for goods the export of which would transfer military critical technologies to countries to which exports are controlled under this section.

"(2) The Secretary of Defense shall develop a list of military critical technologies. In developing such list, primary emphasis shall be given to—

"(A) arrays of design and manufacturing knowhow;

"(B) keystone manufacturing, inspection, and test equipment; and

"(C) goods accompanied by sophisticated operation, application, or maintenance knowhow,

which are not possessed by countries to which exports are controlled under this section and which, if exported, would permit a significant advance in a military system of any such country.

"(3)(A) The list referred to in paragraph (2) shall be sufficiently specific to guide the determinations of any official exercising export licensing responsibilities under this Act; and

(B) The initial version of the list referred to in paragraph (2) shall be completed and published in an appropriate form in the Federal Register not later than October 1, 1980.

"(4) The list of military critical technologies developed by the Secretary of Defense pursuant to paragraph (2) shall become a part of the commodity control list.

"(5) The Secretary of Defense shall report annually to the Congress on actions taken to carry out this subsection.

"(e) EXPORT LICENSES.—(1) The Congress finds that the effectiveness and efficiency of the process of making export licensing determinations under this section is severely hampered by the large volume of validated export license applications required to be submitted under this Act. Accordingly, it is the intent of Congress in this subsection to encourage the use of a qualified general license, in lieu of a validated license, to the maximum extent practicable, consistent with the national security of the United States.

"(2) To the maximum extent practicable, consistent with the national security of the United States, the Secretary shall require a validated license under this section for the export of goods or technology only if—

"(A) the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, under the terms of such multilateral agreement, such export requires the specific approval of the parties to such multilateral agreement;

"(B) with respect to such goods or technology, other nations do not possess capabilities comparable to those possessed by the United States; or

"(C) the United States is seeking the agreement of other suppliers to apply comparable controls to such goods or technology and, in the judgment of the Secretary, United States export controls on such goods or technology, by means of such license, are necessary pending the conclusion of such agreement.

"(3) To the maximum extent practicable, consistent with the national security of the United States, the Secretary shall require a qualified general license, in lieu of a validated license, under this section for the export of goods or technology if the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party, but such export does not require the specific approval of the parties to such multilateral agreement.

"(f) FOREIGN AVAILABILITY.—(1) The Secretary, in consultation with appropriate Government agencies and with appropriate technical advisory committees established pursuant to subsection (h) of this section, shall review, on a continuing basis, the availability, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, of any goods or technology the export of which requires a validated license under this section. In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that any such goods or technology are available in fact to such destinations from such sources in sufficient quantity and of sufficient quality so that the requirement of a validated license for the export of such goods or technology is or would be ineffective in achieving the purpose set forth in subsection (a) of this section, the Secretary may not, after the determination is made, require a validated license for the export of such goods or technology during the period of such foreign availability, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination together with a concise statement of its basis, and the estimated economic impact of the decision.

"(2) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a particular country and which meets all other requirements for such an application, if the Secretary determines that such goods or technology will, if the license is denied, be available in fact to such country from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of sufficient quality so that denial of the license would be ineffective in achieving the purpose set forth in subsection (a) of this section, subject to the exception set forth in paragraph (1) of this subsection. In any case in which the Secretary makes a determination of foreign availability under this paragraph with respect to any goods or technology, the Secretary shall determine whether a determination of foreign availability under paragraph (1) with respect to such goods or technology is warranted.

"(3) If, in any case in which the President makes a determination under paragraph (1) or (2) of this subsection, with respect to national security, the good or technology concerned is critical to United States national security and, if available to an adversary country, would permit a significant contribution to the military potential of that country, the President shall direct the Secretary of State to enter into negotiations with the appropriate government or governments in order to eliminate foreign availability of such good or technology.

"(4) With respect to export controls imposed under this section, any determination of foreign availability which is the basis of a decision to grant a license for, or to re-

move a control on, the export of a good or technology, shall be made in writing and shall be supported by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability.

"(5) Whenever the Secretary of State, in consultation with the Secretary, has reason to believe that the availability of any goods or technology from sources outside the United States can be prevented or eliminated by means of negotiations with other countries, the Secretary of State shall undertake such negotiations. The Secretary shall not make any determination of foreign availability under paragraph (1) or (2) of this subsection with respect to such goods or technology until the Secretary of State has had a reasonable amount of time to conclude such negotiations.

"(6) In order to further effectuate the policies set forth in this paragraph, the Secretary shall establish, within the Office of Export Administration of the Department of Commerce, a capability to monitor and gather information with respect to the foreign availability of any goods or technology subject to export controls under this section. The Secretary shall include a detailed statement with respect to actions taken in compliance with the provisions of this paragraph in each report to the Congress made pursuant to section 14 of this Act.

"(7) Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, shall consistent with the protection of intelligence sources and methods, furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration, and such Office, upon request or where appropriate, shall furnish to such departments and agencies the information it gathers and receives concerning foreign availability.

"(g) INDEXING.—In order to ensure that requirements for validated licenses and qualified general licenses are periodically removed as goods or technology subject to such requirements become obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for annual increases in the performance levels of goods or technology subject to any such licensing requirement. Any such goods or technology which no longer meet the performance levels established by the latest such increase shall be removed from the list established pursuant to subsection (c) of this section unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other Government agency objects to such removal and the Secretary determines, on the basis of such objection, that the goods or technology shall not be removed from the list.

"(h) TECHNICAL ADVISORY COMMITTEES.—(1) Upon written request by representatives of a substantial segment of any industry which produces any goods or technology subject to export controls under subsection (a) or being considered for such controls because of their significance to the national security of the United States, the Secretary shall appoint a technical advisory committee for any such goods or technology which the Secretary determines are difficult to evaluate because of questions concerning technical matters, worldwide availability, and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and Government, including the Departments of Commerce, Defense, and State and, in the discretion of the Secretary, other Government departments and agencies. No person serving on any such committee who is a representative of industry shall serve on such committee for more than four consecutive years.

"(2) Technical advisory committees established under paragraph (1) shall advise and assist the Secretary, the Secretary of Defense, and any other department, agency, or official of the Government of the United States to which the President delegates authority under this Act, with respect to actions designed to carry out the policy set forth in section 3(2)(A) of this Act. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. Nothing in this subsection shall prevent the Secretary or the Secretary of Defense from consulting, at any time, with any person representing industry or the general public, regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary, to present evidence to such committees.

"(3) To facilitate the work of the technical advisory committees, the Secretary, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the goods or technology with respect to which that committee furnishes advice.

"(4) Whenever a technical advisory committee certifies to the Secretary that goods or technology with respect to which such committee was appointed have become available in fact, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of sufficient quality so that requiring a validated license for the export of such goods or technology would be ineffective in achieving the purpose set forth in subsection (a), and provides adequate documentation for such certification, in accordance with the procedures established pursuant to subsection (f)(1) of this section, the Secretary shall take steps to verify such availability, and upon such verification shall remove the requirement of a validated license for the export of the goods or technology, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination together with a concise statement of its basis, and the estimated economic impact of the decision.

"(i) MULTILATERAL EXPORT CONTROLS.—(1) The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee of the Consultative Group (hereinafter in this subsection referred to as the 'Committee') with a view toward accomplishing the following objectives:

"(A) Agreement to publish the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such agreement, and all changes thereto.

"(B) Agreement to hold periodic meetings of such governments with high-level representation from such governments, for the purpose of discussing export control policy issues and issuing policy guidance to the Committee.

"(C) Agreement to reduce the scope of the export controls imposed by agreement of the Committee to a level acceptable to and enforceable by all governments participating in the Committee.

"(D) Agreement on more effective procedures for enforcing the export controls agreed to pursuant to subparagraph (C).

"(2) The President shall include, in each annual report required by section 14 of this Act, a detailed report on the progress of the negotiations required by paragraph (1), until such negotiations are concluded.

"(j) COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES.—(1) Any United States person who, for commercial purposes, enters into any agreement with any agency of the government of a country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement (to which the United States and such country are parties) calling for the encouragement of technical cooperation, and which agreement is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report such agreement to the Secretary.

"(2) The provisions of paragraph (1) shall not apply to colleges, universities, or other educational institutions.

"(k) NEGOTIATIONS WITH OTHER COUNTRIES.—The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with other countries regarding their cooperation in restricting the export of goods and technology in order to carry out the policy set forth in section 3(9) of this Act, as authorized by subsection (a) of this section, including negotiations with respect to which goods and technology should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.

"FOREIGN POLICY CONTROLS

"SEC. 6. (a) AUTHORITY.—(1) In order to effectuate the policy set forth in paragraph (2)(B), (7), or (8) of section 3 of this Act, the President may prohibit or curtail the exportation of any goods, technology, or other information subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, to the extent necessary to further significantly the foreign policy of the United States or to fulfill its international responsibilities. The authority granted by this subsection shall be exercised by the Secretary, in consultation with the Secretary of State and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses issued by the Secretary.

"(2)(A) Whenever the Secretary makes any revision with respect to any goods, technology, or other information or with respect to the countries or destinations affected by export controls imposed under this subsection, the Secretary shall publish in the Federal Register a notice of such revision, and shall specify in the notice that the revision relates to controls imposed under the authority contained in this subsection.

"(B) Whenever the Secretary denies any export license under this subsection, the Secretary shall specify in the notice to the applicant of the denial of such license that

the license was denied under the authority contained in this subsection, and the reasons for such denial, with reference to the criteria set forth in subsection (b) of this section. Further, the Secretary shall include in the notice to the applicant of denial of such license what, if any, modifications in or restrictions on the goods or technologies for which the license was sought would allow such export to be compatible with controls implemented under this section, or shall indicate in such notice which Departmental officials familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restrictions if appropriate.

"(3) In accordance with the provisions of section 10 of this Act, the Secretary of State shall have the right to review any export license application under this section that the Secretary requests to review, and to appeal to the President any decision of the Secretary with respect to such license application.

"(b) CRITERIA.—In determining whether to impose export controls under this section, the President, acting through the Secretary and the Secretary of State, shall consider—

"(1) the likely effectiveness of the proposed controls in achieving their purpose, including the availability from other countries of any goods or technology comparable to goods or technology proposed for export controls under this section;

"(2) the compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

"(3) the likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, and on individual United States companies and their employees and communities, including the effects of the controls on existing contracts; and

"(4) the ability of the United States Government to enforce the proposed controls effectively.

"(c) CONSULTATION WITH INDUSTRY.—The Secretary, before imposing export controls under this section, shall consult with such affected United States industries as the Secretary considers appropriate, with respect to the criteria set forth in paragraphs (1) and (3) of subsection (b) and such other matters as the Secretary considers appropriate.

"(d) ALTERNATIVE MEANS.—Before resorting to the imposition of export controls under this section, the President shall determine that reasonable efforts have been made to achieve the purposes of the controls through negotiations or other alternative means.

"(e) NOTIFICATION TO CONGRESS.—The President in every possible instance shall consult with the Congress before imposing any export control under this section. Whenever the President imposes any export control with respect to any country under this section, he shall immediately notify the Congress of the imposition of such export control, and shall submit with such notification a report specifying—

"(1) the reasons for the control, the purposes the control is designed to achieve, and the conditions under which the control will be removed;

"(2) those considerations of the criteria set forth is subsection (b) which led him to determine that on balance such export control would further the foreign policy interests of the United States or fulfill its international responsibilities, including those criteria which were determined to be inapplicable;

"(3) the nature and results of consultations with industry undertaken pursuant to subsection (c); and

"(4) the nature and results of any alternative means attempted under subsection (d), or the reasons for imposing the control without attempting any such alternative means.

To the extent necessary to further the effectiveness of such export control, portions of such report may be submitted on a classified basis, and shall be subject to the provisions of section 12(c) of this Act. If the Congress, within sixty days after the receipt of such notification, adopts a concurrent resolution disapproving such export control, then such export control shall cease to be effective upon the adoption of the resolution. In the computation of such sixty-day period, there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain or because of an adjournment of the Congress sine die. The procedures set forth in section 130 of the Atomic Energy Act of 1954 shall apply to any concurrent resolution referred to in this subsection, except that any such resolution shall be reported by the appropriate committees of both Houses of Congress not later than forty-five days after the receipt of the notification submitted pursuant to this subsection.

"(f) EXCLUSION FOR FOOD AND MEDICINE.—This section does not authorize export controls on food, medicine, or medical supplies. It is the intent of Congress that the President not impose export controls under this section on any goods or technology if he determines that the principal effect of the export of such goods or technology would be to help meet basic human needs. This subsection shall not be construed to prohibit the President from imposing restrictions on the export of food, medicine, or medical supplies, under the International Emergency Economic Powers Act.

"(g) TRADE EMBARGOES.—This section does not authorize the imposition by the United States of a total trade embargo on any country. This subsection shall not be construed to prohibit the President from imposing a trade embargo under the International Emergency Economic Powers Act.

"(h) FOREIGN AVAILABILITY.—In applying export controls under this section, the President shall take all feasible steps to initiate and conclude negotiations with appropriate foreign governments for the purpose of securing the cooperation of such foreign governments in controlling the export to countries and consignees to which the United States export controls apply of any goods or technology comparable to goods or technology controlled for export under this section.

"(i) INTERNATIONAL OBLIGATIONS.—The limitations contained in subsections (b), (c), (d), (f), (g), and (h) shall not apply in any case in which the President exercises the authority contained in this section to impose export controls, or to approve or deny export license applications, in order to fulfill commitments of the United States pursuant to treaties to which the United States is a party, or to comply with decisions or other actions of international organizations of which the United States is a member.

"(j) EXISTING CONTROLS.—The provisions of subsection (f) and (g) shall not apply to any export control on food or medicine or to any trade embargo in effect on the effective date of the Export Administration Act Amendments of 1979.

"(k) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate before any license is approved for the export of goods or technology valued at more than $7,000,000 to any country concerning which the Secretary of State has made the following determinations:

"(1) Such country has repeatedly provided support for acts of international terrorism.

"(2) Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.

"(l) CONTROL LIST.—The Secretary shall establish and maintain, as part of the commodity control list, a list of any goods or technology subject to export controls under this section, and the countries to which such controls apply. Such goods or technology shall be clearly identified as subject to controls under this section. Such list shall consist of goods and technology identified by the Secretary of State, with the concurrence of the Secretary. If the Secretary and the Secretary of State are unable to agree on the list, the matter shall be referred to the President for resolution. The Secretary shall issue regulations providing for periodic revision of such list for the purpose of eliminating export controls which are no longer necessary to fulfill the purpose set forth in subsection (a) of this section or are no longer advisable under the criteria set forth in subsection (b) of this section.".

(c) The Export Administration Act of 1969 is amended by inserting after section 9, as redesignated by subsection (a) of this section, the following new section:

"PROCEDURES FOR PROCESSING VALIDATED AND QUALIFIED GENERAL LICENSE APPLICATIONS

"SEC. 10. (a) GENERAL RESPONSIBILITY OF THE SECRETARY; DESIGNATED OFFICIAL.—(1) All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this section for objections by other agencies. The Secretary may not delegate the authority to deny any such application to any official holding a rank lower than Deputy Assistant Secretary.

"(2) For purposes of this section, the term 'designated official' means an official designated by the Secretary to carry out functions under this Act with respect to the administration of export licenses.

"(b) APPLICATIONS TO BE REVIEWED TO OTHER AGENCIES.—(1) It is the intent of Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other Government agency.

"(2) The head of any Government agency concerned with export controls may, within ninety days after the effective date of this section, and periodically thereafter, in consultation with the Secretary, determine the specific types and categories of license applications to be reviewed by such agency before the Secretary approves or disapproves any such application. The Secretary shall, in accordance with the provisions of this section, submit to the agency involved any license application of any such type or category.

"(c) INITIAL SCREENING.—Within ten days after the date on which any export license application is received, the designated official shall—

"(1) send to the applicant an acknowledgment of the receipt of the application and the date of the receipt;

"(2) submit to the applicant a written description of the procedures required by this section, the responsibilities of the Secretary and of other agencies with respect to the application, and the rights of the applicant;

"(3) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this section; and

"(4) determine whether it is necessary to submit the application to any other agency and, if such submission is determined to be necessary, inform the applicant of the agency or agencies to which the application will be referred.

"(d) ACTION BY THE DESIGNATED OFFICIAL.—Within thirty days after the date on which an export license application is received, the designated official shall—

"(1) approve or disapprove the application and formally issue or deny the license, as the case may be; or

"(2)(A) submit the application, together with all necessary analysis and recommendations of the Department of Commerce, concurrently to any other agenceis pursuant to subsection (b)(2); and

"(B) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation submitted to such other agency with respect to such application.

"(e) ACTION BY OTHER AGENCIES.—(1) Any agency to which an application is submitted pursuant to subsection (d)(2)(A) shall submit to the designated official, within thirty days after the end of the thirty-day period referred to in subsection (d), any recommendations with respect to such application. Except as provided in paragraph (2), any such agency which does not so submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the designated official to have no objection to the approval of such application.

"(2) If the head or acting head of any such agency notifies the Secretary before the expiration of the time period provided in paragraph (1) for submission of its recommendations that more time is required for review of the application by such agency, the agency shall have an additional thirty-day period to submit its recommendations to the designated official. If such agency does not so submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the designated official to have no objection to the approval of the application.

"(f) DETERMINATION BY THE DESIGNATED OFFICIAL.—(1) The designated official shall take into account any recommendation of an agency submitted with respect to an application to the designated official pursuant to subsection (e), and, within twenty days after the end of the appropriate period specified in subsection (e) for submission of such agency recommendations, shall—

"(A) approve or disapprove the application and inform such agency of such approval or disapproval; or

"(B) if unable to reach a decision with respect to the application, refer the application to the Secretary and notify such agency and the applicant of such referral.

"(2) The designated official shall formally issue or deny the license, as the case may be, not more than ten days after such official makes a determination under paragraph (1)(A), unless any agency which submitted a recommendation to the designated official pursuant to subsection (e) with respect to the license application, notifies such official, within such ten-day period, that it objects to the determination of the designated official.

"(3) The designated official shall fully inform the applicant, to the maximum extent consistent with the national security and foreign policy of the United States—

"(A) within five days after a denial of the application, of the statutory basis for the denial, the policies in section 3 of this Act that formed the basis of the denial, the specific circumstances that led to the denial, and the applicant's right to appeal the denial to the Secretary under subsection (k) of this section; or

"(B) in the case of a referral to the Secretary under paragraph (1)(B) or an objection by an agency under paragraph (2) of the specific questions raised and any negative considerations or recommendations made by an agency, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations

"(g) ACTION BY THE SECRETARY.—(1)(A) In the case of an objection of an agency of which the designated official is notified under subsection (f)(2), the designated official shall refer the application to the Secretary The Secretary shall consult with the head of such agency, and, within twenty days after such notification, shall approve or disapprove the license application and immediately inform such agency head of such approval or disapproval.

"(B) In the case of a referral to the Secretary under subsection (f)(1)(B), the Secretary shall, within twenty days after notification of the referral is transmitted pursuant to such subsection, approve or disapprove the application and immediately inform any agency which submitted recommendations with respect to the application, of such approval or disapproval.

"(2) The Secretary shall formally issue or deny the license, as the case may be within ten days after approving or disapproving an application under paragraph (1), unless the head of the agency referred to in paragraph (1)(A), or the head of an agency described in paragraph (1)(B), as the case may be, notifies the Secretary of his or her objection to the approval or disapproval

"(3) The Secretary shall immediately and fully inform the applicant, in accordance with subsection (f)(3), of any action taken under paragraph (1) or (2) of this subsection.

"(4) The Secretary may not delegate the authority to carry out the actions required by this subsection to any official holding a rank lower than Deputy Assistant Secretary.

"(h) ACTION BY THE PRESIDENT.—In the case of notification by an agency head, under subsection (g)(2), of an objection to the Secretary's decision with respect to an application, the Secretary shall immediately refer the application to the President. Within thirty days after such notification, the President shall approve or disapprove the application and the Secretary shall immediately issue or deny the license, in accordance with the President's decision In any case in which the President does not approve or disapprove the application within such thirty-day period, the decision of the Secretary shall be final and the Secretary shall immediately issue or deny the license in accordance with the Secretary's decision.

"(i) SPECIAL PROCEDURES FOR SECRETARY OF DEFENSE.—(1) Notwithstanding any other provision of this section, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

"(2) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the export control office to which licensing requests are made, the types and categories of transactions which should be reviewed by him in order to make a determination referred to in paragraph (1). Whenever a license or other authority is requested for the export to any country to which exports are controlled for national security purposes of goods or technology within any such type or category, the appropriate export control office or agency to which such request is made shall notify the Secretary of Defense of such request, and such office may not issue any license or other authority pursuant to the request before the expiration of the period within which the President may disapprove such export The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this paragraph and, not later than thirty days after notification of the request, shall—

"(A) recommend to the President that he disapprove any request for the export of any goods or technology to any such country if he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country.

"(B) notify such office or agency that he will interpose no objection if appropriate conditions designed to achieve the purposes of this Act are imposed; or

"(C) indicate that he does not intend to interpose an objection to the export of such goods or technology

If the President notifies such office or agency, within thirty days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country

"(3) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this subsection, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this section

"(j) MULTILATERAL REVIEW.—(1) In any case in which an application which has been finally approved under subsection (d), (f), (g) (h) or (i) of this section, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party the license shall not be issued as prescribed in such subsections, but the Secretary shall notify the applicant of the approval (and the date of such approval) of the application by the United States Government, subject to such multilateral review The license shall be issued upon approval of the application under such multilateral review If such multilateral review has not resulted in a determination with respect to the application within sixty days after such date, the Secretary's approval of the application shall be final and the license shall be issued The Secretary shall institute such procedures for preparation of necessary documentation before final approval of the application by the United States Government as the Secretary considers necessary to implement the provisions of this paragraph

"(2) In any case in which the approval of the United States Government is sought by a foreign government for the export of goods or technology pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the Secretary of State, after consulting with other appropriate United States Government agencies, shall, within sixty days after the date on which the request for such approval is made, make a determination with respect to the request for approval Any such other agency which does not submit a recommendation to the Secretary of State before the end of such

sixty-day period shall be deemed by the Secretary of State to have no objection to the request for United States Government approval. The Secretary of State may not delegate the authority to disapprove a request for United States Government approval under this paragraph to any official of the Department of State holding a rank lower than Deputy Assistant Secretary.

"(k) EXTENSIONS.—If the Secretary determines that a particular application or set of applications is of exceptional importance and complexity, and that additional time is required for negotiations to modify the application or applications, the Secretary may extend any time period prescribed in this section. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor.

"(l) APPEAL AND COURT ACTION.—(1) The Secretary shall establish appropriate procedures for any applicant to appeal to the Secretary the denial of an export license application of the applicant.

"(2) In any case in which any action prescribed in this section is not taken on a license application within the time periods established by this section (except in the case of a time period extended under subsection (k) of which the applicant is notified), the applicant may file a petition with the Secretary requesting compliance with the requirements of this section. When such petition is filed, the Secretary shall take immediate steps to correct the situation giving rise to the petition and shall immediately notify the applicant of such steps.

"(3) If, within thirty days after petition is filed under paragraph (2), the processing of the application has not been brought into conformity with the requirements of this section, or, if the application has been brought into conformity with such requirements, the Secretary has not so notified the applicant, the applicant may bring an action in an appropriate United States district court for a restraining order, a temporary or permanent injunction, or other appropriate relief, to require compliance with the requirements of this section The United States district courts shall have jurisdiction to provide such relief as appropriate.

"(m) RECORDS.—The Secretary and any agency to which any application is referred under this section shall keep accurate records with respect to all applications considered by the Secretary or by any such agency."

SHORT SUPPLY LICENSE ALLOCATION

SEC. 105. Section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended in subsection (b) by adding the following at the end of paragraph (1): "Such factors shall include the extent to which a country engages in equitable trade practices with respect to United States goods and treats the United States equitably in times of short supply".

MONITORING OF EXPORTS

SEC. 106. Section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended by amending paragraph (1) of subsection (c) to read as follows:

"(c)(1) To effectuate the policy set forth in section 3(2)(C) of this Act, the Secretary shall monitor exports, and contracts for exports, of any good (other than a commodity which is subject to the reporting requirements of sction 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy or any sector thereof. Any such monitoring shall commence at a time adequate to assure that the monitoring will result in a data base sufficient to enable policies to be developed, in accordance with section 3(2)(C) of this Act, to mitigate a short supply situation or serious inflationary price rise or, if export controls are needed, to permit imposition of such controls in a timely manner. Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection.".

DOMESTIC CRUDE OIL

SEC. 107. Subsection (1) of section 7 of the Export Administration Act of 1969, as such section is redesignated by section 104 (a) of this Act, is amended—

(1) in paragraph (1)—

(A) by striking out clause (A) and inserting in lieu thereof the following: "(A) is exported to the territory of an adjacent foreign state to be refined and consumed therein in exchange for the same quantity of crude oil being exported from that country to the United States, such exchange achieving, through convenience or increased efficiency of transportation, lower oil prices described in paragraph (2)(A)(ii) of this subsection for consumers in the United States, or", and

(B) by striking out "during the 2-year period beginning on the date of enactment of this subsection"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

"(A) the President makes and publishes express findings that exports of such crude oil, including exchanges—

"(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

"(ii) will, within three months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refineries which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil which is exported, and (II) commensurately reduced wholesale and retail prices of products refined from such imported crude oil;

"(iii) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

"(iv) are clearly necessary to protect the national interest; and

"(v) are in accordance with the provisions of this Act; and

"(B) the President reports such findings to the Congress and the Congress, within sixty days thereafter, passes a concurrent resolution approving such exports on the basis of the findings.

Findings of lower costs and prices described in subparagraph (A)(ii) should be audited and verified by the General Accounting Office at least semiannually.

"(3) Notwithstanding any other provision of this section and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any nation pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before May 1, 1979.".

UGANDA

SEC. 108. Section 7 of the Export Administration Act of 1969, as redesignated by section 104 of this Act, is amended by repealing subsection (m), as added by section 5(d) of the Act of October 10, 1978 (Public Law 95-435).

PETITIONS FOR MONITORING OR CONTROLS

SEC. 109. Section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d)(1)(A) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes metallic materials capable of being recycled with respect to which a serious inflationary impact resulting from an increase in domestic prices or a domestic shortage, either of which results from increased exports, has or may have a significant adverse effect on the national economy or any sector thereof, may transmit a written petition to the Secretary requesting the monitoring of exports, or the imposition of export controls, or both, with respect to such material, in order to carry out the policy set forth in section 3(2)(C) of this Act.

"(B) Each petition shall be in such form as the Secretary shall prescribe and shall contain information in support of the action requested. The petition shall include any information reasonably available to the petitioner indicating (1) that there has been a significant increase, in relation to a specific period of time, in exports of such material in relation to domestic supply and (2) that there has been a serious inflationary impact resulting from a significant increase in the price of such material which may be related to exports.

"(2) Within fifteen days after receipt of any petition described in paragraph (1), the Secretary shall publish a notice in the Federal Register. The notice shall (A) include the name of the material which is the subject of the petition, (B) include the Schedule B number of the material as set forth in the Statistical Classification of Domestic and foreign Commodities Exported from the United States, (C) indicate whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material, and (D) provide that interested persons shall have a period of thirty days commencing with the date of publication of such notice to submit to the Secretary written data, views, or arguments, with or without opportunity for oral presentation, with respect to the matter involved. At the request of the petitioner or any other described in paragraph (1)(A) with respect to the material which is the subject of the petition, or at the request of any entity representative of producers or exporters of such material, the Secretary shall conduct public hearings with respect to the subject of the petition, in which event the thirty-day period may be extended for forty-five days.

"(3) Within forty-five days after the end of the thirty or forty-five-day period described in paragraph (2), as the case may be, or within seventy-five days after the publication in the Federal Register, pursuant to paragraph (2), whichever occurs later, the Secretary shall—

"(A) determine whether to impose monitoring or controls, or both, on the exportation of such material, in order to carry out the policy set forth in section 3(2)(C) of this Act; and

"(B) publish in the Federal Register a detailed statement of the reasons for such determination.

"(4) Within fifteen days after making a determination under paragraph (3) to impose monitoring or controls on the exportation of a material, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within thirty days following the publication of such proposed regulations, and after considering any public comments, the Secretary shall publish and implement final regulations.

"(5) For purposes of publishing notices in the Federal Register and scheduling pub-

lic hearings, the Secretary may consolidate petitions, and responses thereto, which involve the same or related materials.

"(6) If a petition has been fully considered within the past six months under this section and a notice has been published with respect to a particular material or group of materials and in the absence of significantly changed circumstances, the Secretary shall have authority to determine that the petition for monitoring or control of such material does not merit the full consideration mandated under this section.

"(7) The procedures and time limits set forth in this subsection with respect to a petition filed under this subsection shall take precedence over any review undertaken at the initiative of the Secretary with respect to the same subject as that of the petition.

"(8) The Secretary may impose monitoring or controls on a temporary basis after a petition is filed under paragraph (1)(A) but before the Secretary makes a determination under paragraph (3) if the Secretary considers such action to be necessary to carry out the policy set forth in section 3(2)(C) of this Act.

"(9) The authority under this section shall not be construed to affect the authority of the Secretary under the other provision of this Act.

"(10) Nothing contained in this section shall be construed to preclude submission on a confidential basis to the Secretary of Commerce of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, nor consideration of such information by the Secretary in reaching decisions required under this section. The provisions of of this subsection are not intended to change the applicability of section 552(b) of title 5, Uinted States Code."

BARTER AGREEMENTS

SEC. 110. Section 7 of the Export Administration Act of 1969, as redesignated by section 104 of this Act, is amended by adding at the end thereof the following new subsection:

"(n)(1) The exportation pursuant to a barter agreement of any goods which may lawfully be exported from the United States, or any goods which may lawfully be imported into the United States, may be exempted, in accordance with paragraph (2) of this subsection, from any quantiative limitation on exports (other than any reporting requirement) imposed to carry out the policy set forth in section (3)(2)(C) of this Act, or imposed by the President under the International Emergency Economic Powers Act (50 U.S.C. App. 1701 et seq.) on account of a threat to the economy of the United States.

"(2) The Secretary shall grant an exemption under paragraph (1) if the Secretary finds, after consultation with the head of any appropriate agency of the United States, that—

"(A) for the period during which the barter agreement is to be performed—

"(i) the average annual quantity of the goods to be exported pursuant to the barter agreement will not be required to satisfy the average amount of such goods estimated to be required annually by the domestic economy and will be surplus thereto; and

"(ii) the average annual quantity of the goods to be imported will be less than the average amount of such goods estimated to be required annually to supplement domestic production; and

"(B) the parties to such barter agreement have demonstrated adequately that they intend, and have the capacity, to perform such barter agreement.

"(3) For purposes of this subsection, the term 'barter agreement' means any agreement which is made for the exchange, without monetary consideration, of any goods produced in the United States for any goods produced outside of the United States.

"(4) This subsection shall apply only with respect to barter agreements entered into after the effective date of the Export Administration Act Amendments of 1979.".

EXPORTS OF HIDES AND SKINS

SEC. 111. Paragraph (1) of subsection (f) of section 7 of the Export Administration Act of 1969, as such section is redesignated by section 104(a) of this Act, is amended by adding at the end thereof the following: "The Secretary of Agriculture shall, by exercising the authorities which the Secretary of Agriculture has under other applicable provisions of law, collect data with respect to export sales of animal hides and skins.".

UNPROCESSED RED CEDAR

SEC. 112. (a) The Secretary of Commerce shall require a validated license, under section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, for the export of unprocessed western red cedar (Thuja plicata) logs, harvested from State or Federal lands. The Secretary shall impose quantitative restrictions upon the export of unprocessed western red cedar logs during the three-year period beginning on the effective date of this Act as follows:

(1) Not more than thirty million board feet scribner of such logs may be exported during the first year of such three-year period.

(2) Not more than fifteen million board feet scribner of such logs may be exported during the second year of such period.

(3) Not more than five million board feet scribner of such logs may be exported during the third year of such period.

After the end of such three-year period, no unprocessed western red cedar logs may be exported from the United States.

(b) The Secretary of Commerce shall allocate export licenses to exporters pursuant to this section on the basis of a prior history of exportation by such exporters and such other factors as the Secretary considers necessary and appropriate to minimize any hardship to the producers of western red cedar and to further the foreign policy of the United States.

(c) Unprocessed western red cedar logs shall not be considered to be an agricultural commodity for purposes of subsection (f) of section 7 of the Export Administration Act of 1969, as such section is redesignatd by section 104(a) of this Act.

(d) As used in this subsection, the term "unprocessed western red cedar" means red cedar timber which has not been processed into—

(1) lumber without wane;

(2) chips, pulp, and pulp products;

(3) veneer and plywood;

(4) poles, posts, or pilings cut or treated with preservative for use as such and not intended to be further processed; or

(5) shakes and shingles.

CIVIL AIRCRAFT EQUIPMENT

SEC. 113. Notwithstanding any other provision of law, any product (1) which is standard equipment, certified by the Federal Aviation Administration, in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under the Export Administration Act of 1969. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act. For purposes of this section, the term "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

NONPROLIFERATION CONTROLS

SEC. 114. (a) Nothing in section 5 or 6 of the Export Administration Act of 1969, as added by section 104(b) of this Act, shall be construed to supersede the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.

(b) With respect to any export license application which, under the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, is referred to the Subgroup on Nuclear Export Coordination or other intergency group, the provisions of section 10 of the Export Administration Act of 1969, as added by section 104(c) of this Act, shall apply with respect to such license application only to the extent that they are consistent with such published procedures, except that if the processing of any such application under such procedures is not completed within one hundred and eighty days after the receipt of the application by the Secretary of Commerce, the applicant shall have the rights of appeal and court action provided in subsection (k) of such section 10.

VIOLATIONS

SEC. 115. Section 11 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.".

(2) Subsection (b) is amended to read as follows:

"(b)(1) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or $100,000, whichever is greater, or imprisoned not more than ten years, or both.

"(2) any person who is issued a validated license under this act for the export of any good or technology to a controlled country and who, with knowledge that such a good or technology is being used by such controlled country for military or intelligence gathering purposes wfilfully fails to report such use to the Secretary of Defense, shall be fined the sum equal to the amount of gross profit accrued from the sale of the item or $100,000, which ever is greater, or imprisoned for not more than five years, or both, for purposes of this paragraph, 'controlled country' means any Communist country as defined in section 620(f) of the "Foreign Assistance Act of 1961.".

(3) Subsection (c)(2)(A) is amended by striking out "articles, materials, supplies, or technical data or other information" and inserting in lieu thereof, "goods, technology, or other information".

SEC. 116. Subsection (c) of section 12 of the Export Administration Act of 1969, as such section is redesignated by section 104 (a) of this Act, is amended to read as follows:

"(c)(1) Except as otherwise provided by the third sentence of section 8(b)(2) and by section 11(c)(2)(C) of this Act, information obtained under this Act on or before June 30, 1980, which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such in-

formation shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest.

"(2) Any department or agency exercising any function under this Act may withhold information obtained under this Act after June 30, 1980, only to the extent permitted by statute, except that information concerning licensing of exports filed under this Act shall be withheld from public disclosure unless the release of such information is determined by the head of such department or agency to be in the national interest.

"(3) Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.".

REPORT TO CONGRESS

SEC. 117. Section 14 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended to read as follows:

"ANNUAL REPORT

"SEC. 14. Not later than December 31 of each year, the Secretary shall submit to the Congress a report on the administration of this Act during the preceding fiscal year. All agencies shall cooperate fully with the Secretary in providing information for such report. Such report shall include detailed information with respect to—

"(1) the implementation of the policies set forth in section 3;

"(2) general licensing activities under section 5, 6, and 7;

"(3) actions taken in compliance with section 5(c)(3);

"(4) changes in categories of items under export control referred to in section 5(e);

"(5) the operation of the indexing system under section 5(g);

"(6) determinations of foreign availability made under section 5(f), the criteria used to make such determinations, the removal of any export controls under such section, and any evidence demonstrating a need to impose export controls for national security purposes notwithstanding foreign availability;

"(7) consultations with the technical advisory committees established pursuant to section 5(h), the use made of the advice rendered by such committees, and the contributions of such committees toward implementing the policies set forth in this Act;

"(8) changes in policies toward individual countries under section 5(b);

"(9) actions taken to carry out section 5(d);

"(10) the effectiveness of export controls imposed under section 6 in furthering the foreign policy of the United States;

"(11) the implementation of section 8;

"(12) export controls and monitoring under section 7;

"(13) organizational and procedural changes undertaken to increase the efficiency of the export licensing process and to fulfill the requirements of section 10, including an analysis of the time required to process license applications and an accounting of appeals received, court orders issued, and actions taken pursuant thereto under subsection (1) of such section; and

"(14) violations under section 11 and enforcement activities under section 12.".

RULES AND REGULATIONS

SEC. 118. The Export Administration Act of 1969 is amended by inserting after section 14, as redesignated by section 104(a) of this Act, the following new section:

"REGULATORY AUTHORITY

"SEC. 15. The President and the Secretary may issue such rules and regulations as are necessary to carry out the provisions of this Act. Any such rules or regulations issued to carry out the provisions of section 5(a), 6(a), 7(a), or 8(b) may apply to the financing, transporting, or other servicing of exports and the participation therein by any person.".

DEFINITION

SEC. 119. Section 16 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended—

(1) in paragraph (1) by striking out "and" after the semicolon;

(2) in paragraph (2) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(3) the term 'Secretary' means the Secretary of Commerce.".

EFFECT ON OTHER ACTS

SEC. 120. (a) Section 17 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended in subsection (b) by striking out 'section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934)" and inserting in lieu thereof "section 38 of the Arms Export Control Act (22 U.S.C. 2778)".

(b) Effective October 1, 1979, the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611–1613d) is superseded.

AUTHORIZATION OF APPROPRIATIONS

SEC. 121. Section 18 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 18. (a) REQUIREMENT OF AUTHORIZING LEGISLATIONS.—Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act unless previously and specifically authorized by law.

"(b) AUTHORIZATION.—(1) There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act $7,070,000 for the fiscal year 1980 and $7,777,000 for the fiscal year 1981 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs).

"(2) Of the funds appropriated to the Department of State for the fiscal year 1980, the Secretary of State may use such amounts as may be necessary to carry out the provisions of section 5(k) of this Act.".

TERMINATION DATE

SEC. 122. Section 20 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended by striking out "1979" and inserting in lieu thereof "1983".

REFINED PETROLEUM PRODUCTS

SEC. 123. Section 7 of the Export Administration Act of 1969, as amended by section 109 of this Act, is amended by adding at the end thereof the following new subsection:

"(o)(1) No refined petroleum product or residual fuel oil may be exported except pursuant to an export license specifically authorizing such export. Not later than five days after an application for a license to export any refined petroleum product or residual fuel oil is received, the Secretary shall notify the Congress of such application, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export. Such notification shall be referred to a committee of appropriate jurisdiction in each House of Congress.

"(2) The Secretary may grant such license if, within five days after notification to the Congress under paragraph (1) is received, a meeting of either committee of Congress to which the notification was referred under paragraph (1) has not been called, with respect to the proposed export, (A) by the chairman of the committee, (B) at the request in writing of a majority of the members of the committee, or (C) at the request of the Speaker of the House of Representatives or the Majority Leader of the Senate. Any such meeting shall be held within 10 days after notification to the Congress under paragraph (1) is received. If such a meeting is so called and held, the Secretary may not grant the license until after the meeting.

"(3) If, at any meeting of a committee called and held as provided in paragraph (2), the committee by a majority vote, a quorum being present, requests 30 days, beginning on the date of the meeting, for the purpose of taking legislative action with respect to the proposed export, the Secretary may not grant the license during such 30-day period.

"(4) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, the Secretary may, after notifying the Congress of an application for an export license pursuant to paragraph (1), grant the license if the Secretary certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that the proposed export is vital to the national interest and that a delay will cause irreparable harm.

"(5) At the time the Secretary grants any license to which this subsection applies, the Secretary shall so notify the Congress, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export.

"(6) This subsection shall not apply to (A) any export license application for exports to a country with respect to which historical export quotas established by the Secretary on the basis of past trading relationships apply, or (B) any license application for exports to a country if exports under the license would not result in more than 250,000 barrels of refined petroleum products and residual fuel oil being exported from the United States to such country in any fiscal year.

"(7) For purposes of this subsection, 'refined petroleum product' means gasoline, kerosene, distillates, propane or butane gas, or diesel fuel.

"(8) The Secretary may extend any time period prescribed in section 10 of this Act to the extent necessary to take into account delays in action by the Secretary on a license application on account of the provisions of this subsection.".

TECHNICAL AMENDMENTS

SEC. 124. (a) For purposes of this section, an amendment which is expressed in terms of an amendment to a section or other provision, shall be considered to be a section, as redesignated by section 104(a) of this Act, or other provision of the Export Administration Act of 1969.

(b) Section 7 is amended—

(1) in the section heading by striking out "AUTHORITY" and inserting in lieu thereof "OTHER CONTROLS;"

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting "(2)(C)" immediately after "section 3" the first time it appears,

(ii) by striking out "articles, materials, or supplies, including technical data on any other information," and inserting in lieu thereof "goods",

(iii) by striking out "articles, materials, or supplies" and inserting in lieu thereof goods", and

(iv) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(B) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy stated in section 3(2)(C) of this Act, the Secretary shall include in a notice published in the Federal Register with respect to such restrictions an invitation to all interested parties to submit written comments within fifteen days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking out "(A)" and inserting in lieu thereof "(C)";

(ii) by striking out "of Commerce",

(iii) by striking out "7(c)" and inserting in lieu thereof "12(c)", and

(iv) by striking out "article, material, or supply" and inserting in lieu thereof "goods";

(B) in paragraph (2) by striking out "each article, material, or supply" and inserting in lieu thereof "any goods"; and

(C) by adding at the end thereof the following new paragraph:

"(3) The Secretary shall consult with the Secretary of Energy to determine whether monitoring under this subsection is warranted with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.";

(4) in subsection (f)—

(A) in paragraph (1) by striking out "(B) or (C)" and inserting in lieu thereof "(A) or (B)";

(B) in paragraph (2)—

(i) by striking out "of Commerce" each place it appears, and

(ii) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(C) in paragraph (3) by striking out "clause (A) or (B) of paragraph (2)" and inserting in lieu thereof "paragraph (2)(C)";

(5) in subsection (i) by striking out "(A)" and inserting in lieu thereof "(C)";

(6) in subsection (j)—

(A) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(B) by striking out "of Commerce" each place it appears; and

(7) by striking out subsections (a), (e), (g), (h), and (k), and redesignating subsections (b), (c), (f), (i), (p), (l), subsection (m), as added by section 6(d)(2) of the International Security Assistance Act of 1978, subsection (n), as added by section 109 of this Act, and subsection (o), as added by section 124 of this Act, as subsections (a), (b), (c), (d), (e), (f), (g), (h) and (i), respectively.

(c) Section 8 is amended—

(1) in subparagraph (1)(D) and (5) of subsection (a) by striking out "of Commerce"; and

(2) in subsection (b)—

(A) in paragraph (1) by striking out "4(b)" and inserting in lieu thereof "6(a)"; and

(B) in paragraph (2) by striking out "of Commerce" each place it appears.

(d) Section 9 is amended—

(1) by striking out "of Commerce" each place it appears; and

(2) by striking out "commodity" each place it appears and inserting in lieu thereof "good".

(e) Subsection (c)(2) of section 11 is amended by striking out "4A" each place it appears and inserting in lieu thereof "8".

(f) Section 12 is amended—

(1) in subsection (b) by striking out "the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46)" and inserting in lieu thereof "section 6002 of title 18, United States Code";

(2) in subsection (d)—

(A) by striking out "quarterly"; and

(B) by striking out "10" and inserting in lieu thereof "14"; and

(3) in subsection (e)—

(A) by striking out "of Commerce";

(B) by striking out "(c)" and inserting in lieu thereof "(h)";

(C) by striking out "articles, materials, and supplies" and inserting in lieu thereof "goods and technology"; and

(D) by striking out the last two sentences and inserting in lieu thereof the following: "The Secretary shall include, in the annual report required by section 14 of this Act, actions taken on the basis of such review to simplify such rules and regulations.".

(g) Section 13 is amended by striking out "6" and inserting in lieu thereof "11".

TECHNICAL AMENDMENTS TO OTHER ACTS

SEC. 125. (a) Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) is amended by striking out "sections 6(c), (d), (e), and (f) and 7 (a) and (c) of the Export Administration Act of 1969" and inserting in lieu thereof "subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1969, and by subsections (a) and (c) of section 12 of such Act".

(b)(1) Section 103(c) of the Energy Policy and Conservation Act (42 U.S.C. 6212(c)) is amended by striking out "(A)" each place it appears and inserting in lieu thereof "(C)".

(2) Section 254(e)(3) of such Act (42 U.S.C. 6274(e)(3)) is amended—

(A) by striking out "7" and inserting in lieu thereof "12"; and

(B) by striking out "(50 App. U.S.C. 2406)".

(c) Section 993(e)(2)(D) of the Internal Revenue Code of 1954 (26 U.S.C. 993(c)(2)(D)) is amended—

(1) by striking out "40(b)" and inserting in lieu thereof "7(a)";

(2) by striking out "(50 U.S.C. App. 2403(b))"; and

(3) by striking out "(A)" and inserting in lieu thereof "(C)".

SAVINGS PROVISIONS

SEC. 126. (a) All delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under the Export Control Act of 1949 or the Export Administration Act of 1969 and which are in effect at the time this Act takes effect shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act or the amendments made by this Act.

(b) This Act and the amendments made by this Act shall not apply to any administrative proceedings commenced or any application for a license made, under the Export Administration Act of 1969, which is pending at the time this Act takes effect.

(c) This Act and the amendments made by this Act shall not affect any investigation, suit, action, or other judicial proceeding commenced under the Export Administration Act of 1969, or under section 552 of title 5, United States Code, which is pending at the time this Act takes effect; but such investigation, suit, action, or proceeding shall be continued as if this Act had not been enacted.

EFFECTIVE DATE

SEC. 127 (a) Except as proovided in subsection (b) this title and the amendments made by this title shall take effect on October 1, 1979

(b) The amendments made by section 107 and 108 of this Act shall take effect on the date of enactment of this Act.

(c) Regulations implementing the provisions of section 10 of the Export Administration Act of 1969, as added by section 104 (c) of this Act, shall be issued and take effect not later than July 1, 1980.

DIVERSION TO MILITARY USE OF CONTROLLED GOODS OR TECHNOLOGY

SEC. 128. Section 5 of the Export Administration Act of 1969, as added by section 104 (b) of this Act, is amended by adding at the end thereof the following new subsection:

"(l) DIVERSION TO MILITARY USE OF CONTROLLED GOODS OR TECHNOLOGY.—(1) Whenever there is reliable evidence that goods or technology, which were exported subject to national security controls under this section to a country to which exports are controlled for national security purposes, have been diverted to significant military use, the Secretary shall, for as long as that diversion to significant military use continues—

"(A) deny all further exports to the party responsible for that diversion of any goods or technology subject to national security controls under this section which contribute to that particular military use, regardless of whether such goods or technology are available to that country from sources outside the United States; and

"(B) take such additional steps under this Act as are necessary to prevent, the further military use of the previously exported goods or technology.

"(2) As used in this subsection, the terms 'diversion to significant military use' and 'significant military use' include, but are not limited to, the use of goods or technology in the design or production of any item on the United States Munitions List.".

TITLE II—INTERNATIONAL INVESTMENT SURVEY ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Section 9 of the International Investment Survey Act of 1976 (90 Stat. 2059) is amended to read as follows:

"SEC. 9. To carry out this Act, there are authorized to be appropriated $4,400,000 for the fiscal year ending September 30, 1980, and $4,500,000 for the fiscal year ending September 30, 1981.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979.

TITLE III—MISCELLANEOUS

SEC. 301. Section 402 of the Agricultural Trade Development and Assistance Act of 1954 is amended by inserting "or beer" in the second sentence immediately after "wine".

The motion was agreed to.

The Senate bill was ordered to be read the third time, was read the third time, and passed.

The title was amended so as to read: "A bill to provide for continuation of au-

thority to regulate exports, and for other purposes.

A similar House bill, H.R. 4034, was laid on the table.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 737

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendment to the text of the Senate bill, S. 737, the Clerk be authorized to correct section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 4034.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 737, EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 737, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from New York? The Chair hears none, and appoints the following conferees: Messrs. ZABLOCKI, FASCELL, BINGHAM, BONKER, PEASE, BARNES, WOLPE, FITHIAN, BROOMFIELD, LAGOMARSINO, FINDLEY, and GILMAN.

PERMISSION TO HAVE UNTIL MIDNIGHT, SEPTEMBER 27 TO FILE CONFERENCE REPORT ON S. 737, EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979, AND MAKING IN ORDER ITS CONSIDERATION ON SEPTEMBER 28 OR ANY DAY THEREAFTER

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that the House conferees have until midnight Thursday, September 27, 1979, to file a conference report on the Senate bill, S. 737, and that it shall be in order to consider the conference report on S. 737 on Friday, September 28, 1979, or any day thereafter, and that said conference report shall be considered as having been read.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, reserving the right to object. I just wanted to ask the gentleman from New York if this permission is granted, will the gentleman assure us that there will be written copies available, since if it is filed after midnight on Thursday and is brought up on Friday, Members may not have the benefit of knowing precisely what has been done.

Mr. BINGHAM. If the gentleman will yield, the gentleman is as familiar with the procedures as I am, probably more so. I cannot assure the gentleman that there will be printed copies available. There will be copies available.

Mr. BAUMAN. But there will be some written copies available for consideration?

Mr. BINGHAM. There will be some written copies available.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

IMPROVING GSA'S CONTRACTING OPERATIONS

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. JOHN L. BURTON. Mr. Speaker, as chairman of the Government Activities and Transportation Subcommittee of the Committee on Government Operations, I am introducing today a bill to redirect and strengthen the General Services Administration in order to reform contract procedures and supervision within the Government. Joining me in sponsoring this legislation is our subcommittee's ranking minority member from Pennsylvania (Mr. WALKER).

Our subcommittee has been investigating aspects of GSA's procurement and contracting activities for more than a year. GSA's new Inspector General and the GSA Task Force in the Justice Department's Criminal Division are proceeding with investigation of individual cases of fraud. The subcommittee is giving close attention to assuring full capability of the Office of Inspector General to carry on the needed audit and investigation work.

Our subcommittee has laid special stress on GSA's major buying program for commercial products. This is the multiple award schedule program, which involves 4 million products, 8,000 yearly contracts, and $2 billion in total purchases for fiscal year 1978.

On May 2, 1979, the General Accounting Office submitted, pursuant to our request, a comprehensive report on the multiple award schedule program. It found that there was little price competition, slight monitoring of items ordered, too many items on the schedules, and too many suppliers. In general, it found that GSA does not have the capability to make sure the Government's interests are protected. Pointing out that these problems were basic and of long standing, GSA recommended major legislative changes:

First. To put GSA under a deadline to accomplish management improvements.

Second. To strengthen GSA's position as a primary supplier of products for Federal agencies.

GAO spoke of GSA's "Service-oriented" approach to satisfying the agencies' individual needs in critical terms, declaring: "Without a fundamental change in its philosophy, GSA management will be unable to correct the current situation."

In view of these and other weaknesses our investigations have disclosed, we are proposing now a bill to lay out new powers and duties of GSA with time limits for action. It will bring about greater involvement of the new Inspector General through special consultative, investigative, and report responsibilities. In receiving a larger and clearer mandate of responsibility and accountability, GSA should be able to evolve the new philosophy which it needs and which since 1949 has been the underlying principle of the Federal Property Act; namely, centralized procurement and supply for the Government.

It is a good sign that GSA's leadership has agreed with the GAO report's findings and recommendations. Its new Administrator reaffirmed GSA's agreement by letter on July 11, 1979.

The proposed bill is the product of much study and discussion. GAO, GSA, the Department of Justice, and the Congressional Research Service have been consulted and many of their helpful suggestions have been incorporated in this bill. Nevertheless, I recognize that further changes may become advisable as hearings develop. I want to emphasize that no honest vendors need fear the impact of this bill since it should help to strengthen their role by reducing their unfair competition from shady practices.

Hearings on this bill will begin October 15, 1979.

The bill's main points are these:

First. Section 1 requires contractors to certify their data. It subjects those who furnish fraudulent or misleading information to special civil penalties, including specific monetary assessments and debarment. The contractor's right to hearing and appeal is spelled out.

Second. Section 2 provides for improved and systematized contract administration. Requirements include detailed record-keeping about decisions, personal accountability for decisions as well as operations, periodic review of contracting practices, and a GSA-centralized contract information system.

Third. Section 3 requires GSA to establish a uniform and regular system of contract audits. It requires the Inspector General to conduct periodic evaluation of agencies' audit resources.

Fourth. Section 4 assures greater economy in the repair or alteration of Government-leased office space. It requires additional Congressional oversight and control of proposed work. It will also provide that the current dollar threshold for congressional review is lower so that such review is less easily circumvented.

It is important that the Congress signal its legislative intent with respect to GSA's contracting problems now. The proposed bill is a major step toward that goal. I hope other Members will want to join me and our ranking minority member, Mr. WALKER, as further sponsors of this legislation.

WE MUST HAVE A LARGER INVESTMENT IN MILITARY SPENDING

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, we will have

eration of legitimate interests of our two countries, because they are bound together for the future and in the present.

At a future time, I hope to speak further on this subject and to propose that at some point there be convened a North American Common Market Conference to consider the interests of United States, Mexico, and Canada; because there is a community of interests among all three countries that should be examined carefully in light of the demands of our future mutual security and social interests.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader for his comments with reference to the statement I made.

I also have voiced a strong sentiment for the idea of a common market which would be of assistance to analyze, review, and propose recommended actions that would be useful to all three countries—a common market that would include our two neighboring countries, Canada and Mexico.

I was in Canada, in Toronto, during the August recess and spoke there, and during my speech, I stated this position.

So I am glad that the distinguished minority leader has indicated a similar feeling. I hope that both of us can continue to express support for this idea and that we will be joined by others.

Mr. BAKER. I thank the majority leader.

I, too, am excited at the prospect that the majority leader and I might work together to try to formulate a bipartisan approach to this important matter, and I herewith register my desire to do that.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I see the Senator from Wisconsin is on his feet. If I have time remaining, I will be glad to yield it to him.

Mr. PROXMIRE. Mr. President, will the Senator yield me 3 minutes?

Mr. BAKER. I yield whatever time I have remaining to the Senator from Wisconsin.

Mr. PROXMIRE. I thank the Senator.

EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. PROXMIRE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 737.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 737) to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce.

(The amendment of the House is printed in the RECORD of September 25, 1979, beginning at page H8482.)

Mr. PROXMIRE. Mr. President, I move that the Senate disagree to the House amendments and agree to the conference requested by the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. PROXMIRE, Mr. STEVENSON, Mr. WILLIAMS, Mr. TSONGAS, Mr. GARN, Mr. HEINZ, and Mrs. KASSEBAUM conferees on the part of the Senate.

THE SENATE CONSIDERS A HISTORIC TREATY

Mr. PROXMIRE. Mr. President, the Genocide treaty is the result of long and exacting negotiations conducted by some of this Nation's most able minds. It has already been the subject of great international debate, and 83 nations are on record as supporting it.

This treaty has been the focus of considerable attention in the United States as well, receiving endorsements from numerous national organizations representing over 100 million Americans. These respected groups include the American Bar Association and the American Civil Liberties Union. Individual supporters of the treaty have included seven presidents of the United States—every President of the United States since Harry Truman when the Genocide Treaty was first adopted by the United Nations.

Our consideration of this treaty affects not only this country and this time, but all of the world and its future as well. The subject is, in effect, the survival of humanity.

I am, of course, speaking of the Genocide Convention. As we prepare to devote our time and attention to the coming debate on SALT II, it is terribly important that we do not allow ourselves to forget this other international agreement. For as complex and controversial as SALT is, the Genocide Convention is simple. It seeks to declare that genocide is a crime, abhorrent to the community of civilized nations.

It is simple, indeed, yet the Genocide Convention is open to our consideration today only because 15 previous Senates, over a period of 30 years, have not been able to find the time, the initiatives, or moral direction to affirm clearly this country's position on such a fundamental issue.

I urge my colleagues, as they use their intellects to consider the merits of SALT, to reflect on their consciences as well and ratify the Genocide Convention.

I thank my good friend from Tennessee for graciously yielding the floor.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, the continuing resolution is being marked up in the Appropriations Committee at this time. I hope it will be possible to get the continuing resolution up for tomorrow, certainly Friday if not tomorrow.

The House of Representatives is expected to send over the debt limit bill today, and I assume that Mr. LONG will want that held at the desk.

ORDER TO HOLD H.R. 5369 AT THE DESK

Mr. President, I ask unanimous consent that when H.R. 5369, which is the debt limit measure, comes over from the House of Representatives it be held at the desk pending further action.

Mr. BAKER. Mr. President, we have no objection to that.

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

Mr. BAKER. Mr. President, will the majority leader yield to permit me to address one matter of which he spoke?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, on the question of the continuing resolution I am advised that there are Members on this side who are under the impression that that matter will be scheduled for Friday and not Thursday, and some of them have made plans now that will be conflicting by consideration of the continuing resolution tomorrow.

I am also advised that there is the prospect at least that we may have to go back to conference, some changes may be made here, or we may have to take some other step to accommodate those changes.

I wonder if the majority leader will consider scheduling the continuing resolution or planning to schedule it on Friday instead of Thursday?

Mr. ROBERT C. BYRD. I would rather not, if I may say so most respectfully to the distinguished minority leader.

First of all, I have personally not indicated that we will go over to Friday;

Second, I wish to see what Mr. MAGNUSON and Mr. YOUNG, the chairman and the ranking minority member of the Appropriations Committee, recommend.

Third, if we go over to Friday and hit a stump and have to go back, it is my understanding the House of Representatives is going to, at the close of business Friday, go out for a week, and they may start losing their Members early Friday.

So I would rather not indicate that the resolution will go over to Friday. I prefer to leave that, for the moment at least, to the recommendations of Mr. YOUNG and Mr. MAGNUSON.

Mr. BAKER. All right.

Mr. President, I thank the Senator. I understand that and I also wish to abide by the recommendations of our chairman and ranking minority member on the Appropriations Committee, but I thought I should mention that in view of the fact that there is a subsantial chance that some Members on our side may be heatedly opposed to trying to take it up on Thursday. I did not want the majority leader to be unaware of that.

Mr. ROBERT C. BYRD. I understand.

The problem is a conference could be necessary depending on what action the Senate takes and, with the rapidly approaching deadline of October 1, I think the Senate will have to be guided, I should think, in this instance, by the recommendations of the chairman and the ranking minority member as much as possible.

Mr. BAKER. I agree.

Mr. President, I wanted to make sure my friend, the majority leader, was aware of the complication on this side, and I think that we now must await the recommendation of our respective Members on the Appropriations Committee.

agencies to issue implementing regulations which shall be in accord with the criteria and standards set forth in such policy directives."

"(i) Until the effective date of legislation implementing a uniform procurement system, the Director of the Office of Management and Budget shall deny or rescind the promulgation of any final rule or regulation of any executive agency relating to procurement if the Director determines that such rule or regulation is inconsistent with the policies set forth in paragraphs (1) through (8) of Section 2 of this act or is inconsistent with any policy directives issued pursuant to subsection (h).

(j) Nothing in this Act shall be construed—

(1) to impair or affect the authorities or responsibilities conferred by the Federal Property and Administrative Services Act of 1949 with respect to the procurement of automatic data processing and telecommunications equipment and services or of real property; or

(2) to limit the current authorities and responsibilities of the Director of the Office of Management and Budget.

Strike Section 6 of the House Amendment and insert in lieu thereof, the following:

"SEC. 6. Section 10 of the Act (41 U.S.C. 409) is amended to read as follows:

"EFFECT OF EXISTING REGULATIONS

"SEC. 10. Procurement policies, regulations, procedures, or forms in effect as of the date of enactment of the Office of Federal Procurement Policy Act Amendments of 1979 shall continue in effect, as modified from time to time by the issuing offices on their own initiative or in response to policy directives issued under 6(h) until repealed, amended, or superseded pursuant to the adoption of the uniform procurement system described in section 6 of this Act."

Section 7 of the House Amendment is amended by striking "$3,000,000" and inserting in lieu thereof "$4,000,000."

● Mr. CHILES. Mr. President, earlier this year introduced S. 756, a bill to extend the authorization of the Office of Federal Procurement Policy. S. 756 passed the Senate in May and passed the House, with amendments, earlier this month.

The legislation is supported by the administration, the General Accounting Office, business, and labor.

The purpose of the Senate amendments is to state more explicitly what the authority of the Office will be during the next 4 years. The House amendment establishes as a top priority for OFPP the development and implementation of a uniform procurement system. This system, which would ultimately embrace statutes, regulations, policies, and procedures, would modernize and simplify the system through which the Federal Government spends $90 billion each year. We concur with the distinguished chairman of the House Government Operations Committee in recognizing the importance of such a project.

The House amendment provided that OFPP would have the authority to issue policy directives. The purpose of the Senate amendments is to clarify this authority. It makes it clear that OFPP policy directives shall be followed by executive agencies, and clarifies the nature of such policy directives.

In the past, OFPP has used policy letters as the vehicle for establishing important initiatives. For instance, OFPP used a policy directive letter to establish uniform regulations governing organizational conflicts of interest in procurement and use policy directive letter to implement the Contract Disputes Act of 1978.

These two instances are indicative of the nature and scope of the policy directives which OFPP will be able to promulgate under section 6(h) of S. 756.

OFPP's authority to issue policy directives would be in furtherance of specified policy objectives in S. 756 or of the development and implementation of the proposed uniform procurement system.

Mr. President, there are several other perfecting amendments to this legislation. I would like to submit for the RECORD a brief explanation of each of these amendments.

OFPP's authorization expires this weekend so it is important that we act promptly on this legislation.●

The amendment was agreed to.

Mr. ROBERT C. BYRD. I move that the Senate concur in the House amendments as amended.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

Mr. STEVENSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

EXPORT ADMINISTRATION ACT OF 1979—CONFERENCE REPORT

Mr. STEVENSON. Mr. President, I submit a report of the committee of conference on S. 737 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 737) to provide authority to regulate exports, to improve the efficiencies of export regulation, and to minimize interference with the ability to engage in commerce, (having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the printing requirement be waived.

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

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. STEVENSON. Mr. President, the conferees of the House and Senate on S. 737 have reached agreement on the Export Administration Act legislation. This bill must be passed today in order for the President to sign the legislation before the current export control authority expires this Sunday, September 30, 1979.

The conferees agreed to accept most of the provisions of the Senate bill, S. 737. The Senate Banking Committee reported S. 737 unanimously on May 15 and the Senate adopted the bill by a vote of 74 to 3 on July 21. The bill contains authority to control exports where such controls will advance our national security and foreign policy interests or alleviate economic distress due to domestic short-supply conditions.

The legislation includes improved procedures for processing export license applications. The procedures were contained in the Senate bill and follow closely the recommendations of the National Governors Association.

S. 737 would establish a new export control statute, the Export Administration Act of 1979, superseding the 1969 act. S. 737 incorporates many provisions of the 1969 act, but also makes extensive improvements to insure that export control authority is exercised with maximum efficiency and controls confined to those necessary to achieve important national purposes.

Mr. President, S. 737 would establish an export control policy which protects vital security and foreign policy interests without unnecessarily restricting U.S. exports. It would reduce the number of controlled items and focus national security controls on technologies and related products critical to military systems. It would set criteria which the President must consider before imposing export controls for foreign policy purposes. It would reduce paperwork by establishing licenses under which multiple shipments could be made to a specified purchaser for a stated end use. It would expedite interagency review by requiring agreement in writing on types and categories of applications requiring interagency referral and setting a 30-day deadline for returning comments to the Commerce Department. It would insure final decisions on all applications within a maximum of 180 days.

S. 737 requires that export controls maintained for national security purposes be reviewed by the President every 3 years in the case of controls maintained cooperatively with other nations and every year in the case of unilaterally maintained controls. Priority in administering such controls is to be given to preventing exports of militarily critical goods and technology and the Secretaries of Commerce and Defense are required to review and revise such controls to insure they are focused upon and limited to the maximum extent possible consistent with the purposes of the bill, to militarily critical goods and technology and the mechanisms through which they may be effectively transferred.

S. 737 requires that foreign availability of goods and technology subject to export controls be determined both with respect to controls maintained for foreign policy purposes and those maintained for national security purposes. If the goods or technology are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, the President shall not impose export controls unless he determines that adequate evidence has been presented to him demonstrating that the absence of such

controls would prove detrimental to the foreign policy or national security of the United States. If the President decides to maintain export controls despite foreign availability, he is required to initiate negotiations with other governments to try to remove such foreign availability.

S. 737 would not interfere with the President's ability to respond immediately to foreign policy crises. The President could decide that one, several, or all of the factors were not relevant to imposing export controls in a given situation. He could also impose export controls before it is known whether foreign availability exists.

Moreover, controls could be continued if they were inconsistent with these factors or if it later became apparent that foreign availability does exist. These factors are to be taken into consideration, but they are not conditions which must be met. Controls may be continued notwithstanding foreign availability if the President determines that failure to do so would be detrimental to U.S. foreign policy.

The conference adopted the language of the House bill which provides that, in developing the list of military critical technologies primary emphasis shall be given to arrays of design and manufacturing know-how, keystone manufacturing, inspection and test equipment, and goods accompanied by sophisticated operation, application, or maintenance know-how, which would permit a significant advance in the military system of a country to which exports are controlled.

The version of the bill that had been passed by the Senate provided that priority shall be given to goods and technology critical to the design, development, production, or use of existing or potential military systems, including weapons, command control, communications, and intelligence systems and other military capabilities, such as countermeasures, which would make a significant contribution to the military potential of an adversary nation.

In accepting the House language, there was no intent to reduce the scope of coverage of military critical technologies. Thus, the conference bill covers technologies and goods which transfer know-how which would enable a significant advance in an adversary nation's military system, in the broad sense of the term as was defined in the Senate bill. Also, no substantive difference was intended by the use of the term "significant advance" in the conference bill rather than "significant contribution" which was used in the Senate bill.

Mr. HEINZ. Mr. President, today I am proud to join with my esteemed colleague, the chairman of the Subcommittee on International Finance, ADLAI STEVENSON, to urge passage of the conference report on S. 737, the Export Administration Act of 1979, the purpose of which is to streamline and make more responsive the Nation's export control policy.

At the hearings which have been held on export controls during this Congress and the previous one, I heard almost unanimous condemnation by exporters and expert witnesses of our Nation's export control process. An overwhelming body of evidence was adduced to demonstrate that current export control policy is inconsistent, plagued by uncertainty and vagueness, indeed threatening to undermine our reputation as a reliable supplier in the world marketplace. The administration's response to those accusations was weak and unconvincing.

When the original Export Control Act was adopted after World War II, America was the world's technological leader. Unilateral controls were sufficient, and where they were not, we could threaten aid cut-offs to compel our allies to apply export controls we devised. This is no longer the case. Our preeminent position in the world economy has eroded. The ability of U.S. industry to compete in the world marketplace is declining. Our once substantial lead in technology has been overtaken in significant areas: Machine tools, power turbines, reactors, jet aircraft, naval vessels. Many of tomorrow's critical technologies are being developed today in Japan and Europe.

Our Nation's edge in high technology (as well as agriculture and other industrial goods) is a precious resource for jobs and capital growth which we must aggressively promote in foreign markets. Each time a license is denied for insufficient cause, or delayed to the point where customers are discouraged and begin to look elsewhere, that precious resource is squandered. Worse still, there is a multiplier effect, in which potential exporters lose their enthusiasm for the process and potential importers of U.S. goods decide that they had better turn to other, more reliable sources for their needs, in some cases despite the U.S. edge in quality or technology.

Mr. President, we are ill-served by the current system which causes seemingly endless delays and uncertainty on licenses before granting them. The conference version of S. 737, which we are voting on today would go a long way toward remedying that situation.

The message I have received from exporters is not that they are asking for a removal of restraint. Rather, what they want—and what this bill provides—is a streamlined and predictable export control policy, which can be used as a reliable guide to marketing and long-term commitments.

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

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the report was agreed to.

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

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

CLARIFICATION OF TIME LIMITATION AGREEMENT ON DEBT LIMIT MEASURE, H.R. 5369

Mr. ROBERT C. BYRD. Mr. President, as to the time agreement anent the debt limit measures, there is an overall limitation of 4 hours, and it is the intent, and I state it now, that that 4 hours cover amendments, motions, appeals, and points of order. That is 4 hours overall.

Will the Chair rule on that, so it will be clear?

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

ORDER FOR RECESS UNTIL 10:15 A.M. TOMORROW

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10:15 a.m. tomorrow.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, there are three orders for the recognition of Senators on tomorrow. The Senate will come in at 10:15 a.m. This would mean it will be about 11 o'clock when the Senate proceeds to take up the fuel efficiency measure, which is under a time agreement, and which is identified as Calendar Order No. 326. On that measure, there is 1 hour on the bill and 30 minutes on amendments, debatable motions, appeals, or points of order, if such are submitted to the Senate.

On the disposition of that bill—and I assume there will be a rollcall vote in connection therewith—the Senate will take up the debt limit bill under a 4-hour time agreement. There will undoubtedly be a vote or votes on that, I should think, and conceivably the Senate could be in session until 5 or 6 o'clock tomorrow.

There may be conference reports and/or other measures cleared for action. So this would indicate there would be rollcall votes tomorrow.

RECESS UNTIL 10:15 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 10:15 a.m. tomorrow.

The motion was agreed to; and at 6:22 p.m. the Senate recessed until tomorrow, Friday, September 28, 1979, at 10:15 a.m.

sinations Committee on Dec. 29, 1978, Chief Counsel Blakey said: "Preliminary tests are sufficient to cast into serious doubt the previously established time and intervals." That evening the committee reached its conclusion. Blakey believed that tests not yet conducted would demonstrate that Oswald could have fired twice with a hit on the second shot within 1.66 seconds.

However, in an internal memorandum to committee members dated March 22, 1979, Blakey stated that of six test shooters, including "four expert marksmen," firing a total of 35 shells, "no one achieved this degree of proficiency." Thus, not only does it appear unlikely that Oswald fired twice with a hit on the second shot within 1.66 seconds, it may be humanly impossible to do so. If Oswald did not fire those shots, then the impulses thought to be shots were not shots. This simply negates the credibility of the acoustics study and its conclusions.

Third, a reconstruction in 1964 by the Warren Commission showed that between frames 166 and 210 there was an oak tree whose branches and leaves obscurred Oswald's view of his target, except for a brief opening at frames 185–186. As was noted above, the acoustics study places the second shot at frame 191.

Thus, the acoustics study necessarily implies that Oswald fired blindly and hit his target. This illogical behavior is magnified when one considers that Oswald had an unimpeded stretch of approximately 100 yards and several seconds in which to kill the President, beginning a mere second later.

It seems clear that the necessary implications of the acoustics study are not consistent with a reasonable scenario of the assassination of President Kennedy. Thus, it appears doubtful that the acoustics experts were correct in concluding that a shot originated from the grassy knoll.

Why did the committee conclude there was a conspiracy? Congressman Robert Edgar, a dissenter from the conclusion, may have put it best when he said: "We did a great job up to the last moment, when in our focus on the acoustics we failed to give proper weight to other findings of the investigation."

(Shanin Specter assisted Congressman Robert Edgar in his work on the House Assassinations Committee. He is the son of Arlen Specter, the former Philadelphia District Attorney and counsel to the Warren Commission, which investigated the Kennedy assassination.)

CORNELL LAW SCHOOL,
Ithaca, N.Y., July 30, 1979.

Mr. EDWIN GUTHMAN,
Editor, The Philadelphia Inquirer,
Philadelphia, Pa.

DEAR MR. GUTHMAN: Shanin Spector's piece ("The JFK Conspiracy Theory Does Not Hold Up," (7/23/79)) does an injustice to the work of the Select Committee on Assassinations; it also raises questions about his objectivity and competence.

I

The continued, almost exclusive concentration by Spector and others on the conspiracy conclusions of the Select Committee ignores other important findings and recommendations. The Committee also concluded, for example, that no governmental agency, foreign or domestic, was involved in either the President's or Dr. King's murder; and it made a variety of valuable recommendations, including the preparation of a "White Paper" by the Department of Justice to settle doubts about the acoustical study, and the enactment of charter legislation by the Congress to prevent another harassment campaign by the F.B.I. similar to that conducted against Dr. King.

II

Spector's piece also misstates the Kennedy conspiracy conclusion; it did not, in fact, rest on the acoustical study alone. The Final Report explicitly premises the conclusion on four factors: 1) an inadequate 1964 conspiracy investigation that precludes reliance today on its no conspiracy finding; 2) a finding of associates, who had the motive to murder the President, of Oswald and Ruby who were unknown or unappreciated by the Warren Commission; 3) the inability of the Committee to rule out the complicity of certain individuals; and 4) the scientific fact of two shooters. Reading Spector's piece, I wonder if he read the Final Report, an indispensable prerequisite to discussing it, much less criticizing it.

III

Contrary to Spector's assertion, no evidence is "sharply inconsistent" with the acoustical study. Proving that Oswald shot the President, does not prove that another was not also involved. In addition, it is a half-truth to say that no one "saw" the second gunman. In fact, a policeman, a Secret Service Agent, and a Korean veteran (over whose head the third shot was fired)—among others—said they "heard" the shot from the knoll as well as the shots from the Depository. Others "saw" smoke on the knoll. (Modern guns do emit white gases.) Finally, footprints were found behind the knoll fence, and a policeman accosted a suspicious person behind the fence, who identified himself as a Secret Service agent, even though *no* agent acknowledges being in that area. As Spector does not note, these facts, too, put the Kennedy conspiracy finding "in perspective."

IV

The Committee itself acknowledged that the term "conspiracy" had varying meanings and might be misunderstood, as Specter comments. Yet it also observed, rightly I believe, that it had a duty to be candid. If two persons acted in concert to assassinate the President, that was a "conspiracy," no matter how unpleasant the word sounds. To have used some euphemistic variation would have been an unfortunate attempt to sugarcoat the truth. (We have enough of sugarcoating by government now. That—and not the truth—is the cause of mistrust of government.) No one who reads the Final Report—something I recommend to Specter as well as others who seek the truth—will fail to understand the proper sense in which the term was used.

V

Specter is right in saying that acceptance of the acoustical study implies the acceptance of its assassination scenario. But he is egregiously wrong in describing it. Specter's calculations are, for example, imprecise; they apparently do not reflect such distinctions as average running time of the camera, corrected time of the tape, and time of trigger pull as opposed to time of impact. According to the acoustical study, the first shot, not noted by Specter, occurred around Zapruder frame 156–161. It is, as such, consistent with Governor Connally's testimony, rejected by the Warren Commission, that he heard the first shot, reacted to it, but was not hit by it. Connally can, in fact, be seen in the film to turn to his right at 162–167. (The startled reaction of a little girl can also be seen in the background.)

The second shot occurred around 188–191. Contrary to Specter, Connally's wrist is *not* in sight during these frames, much less high on his chest; from the configuration of his shoulder and arm, the wrist appears to be on the Governor's lap, right where it should be to receive the impact of the second shot. Specter has apparently not only not read the Report, he has not carefully studied the film.. Expert F.B.I. testing in 1964 indicated the rifle could be repeatedly shot at between 2.3 and 2.25 seconds, using the telescopic sight. Using the open iron sights, however, it is possible, though difficult, to shoot the weapon at a much faster pace. (I did it myself in 1.5) With familiarity with the weapon, which Oswald had, accuracy can be added to speed; it is hardly "humanly impossible" to shoot the weapon as the acoustical study indicates it was shot.

Specter also misleads his readers in discussing the tree. Apparently, he has never seen a child run behind a picket fence. While the child is "obscured," he can be clearly seen as he runs; the mind's eye fills in the details. In any event, the trigger pull was probably 187, not 191, which is near to, if not right at, the break in the foliage. The acoustical study, therefore, hardly implies "blind firing," as Specter suggests.

VI

When former President Ford appeared before the Committee, he was asked why the work of the Warren Commission had fallen on such hard times. (80% of the American people do not believe Oswald acted alone.) The former President said its critics had "deliberately or negligently misled the American people by misstating facts and omitting crucial facts . . . ." He also noted that people had not read the Warren Commission's Report. Mr. Specter's piece seems to be following in that tradition. It also seems to be less an objective study of the work of the Committee than an effort to vindicate a father; it also calls into question the quality of the staff work that supported Congressman Edgar's dissent to the Committee's conspiracy conclusions.

Sincerely yours,
G. ROBERT BLAKEY,
Professor of Law,
(Former Chief Counsel and Staff Director, HSCA.) ●

□ 1910

GENERAL LEAVE

Mr. MAVROULES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of the special order speech today by the gentleman from New York (Mr. MURPHY).

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CONFERENCE REPORT ON S. 737

Mr. BINGHAM submitted the following conference report and statement on the bill (S. 737) to provide authority to regulate exports, to improve the efficiencies of export regulation, and to minimize interference with the ability to engage in commerce.

CONFERENCE REPORT (H. REPT. NO. 96–482)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 737) to provide authority to regulate exports, to improve the efficiencies of export regulation, and to minimize interference with the ability to engage in commerce, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagree-

ment to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Export Administration Act of 1979".

FINDINGS

SEC. 2. The Congress makes the following findings:

(1) The ability of United States citizens to engage in international commerce is a fundamental concern of United States policy.

(2) Exports contribute significantly to the economic well-being of the United States and the stability of the world economy by increasing employment and production in the United States, and by strengthening the trade balance and the value of the United States dollar, thereby reducing inflation. The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.

(3) It is important for the national interest of the United States that both the private sector and the Federal Government place a high priority on exports, which would strengthen the Nation's economy.

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

(5) Exports of goods or technology without regard to whether they make a significant contribution to the military potential of individual countries or combinations of countries may adversely affect the national security of the United States.

(6) Uncertainty of export control policy can curtail the efforts of American business to the detriment of the overall attempt to improve the trade balance of the United States.

(7) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

(8) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of technology (and goods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to the national security of the United States.

(9) Minimization of restrictions on exports of agricultural commodities and products is of critical importance to the maintenance of a sound agricultural sector, to achievement of a positive balance of payments, to reducing the level of Federal expenditures for agricultural support programs, and to United States cooperation in efforts to eliminate malnutrition and world hunger.

DECLARATION OF POLICY

SEC. 3. The Congress makes the following declarations:

(1) It is the policy of the United States to minimize uncertainties in export control policy and to encourage trade with all countries with which the United States has diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest.

(2) It is the policy of the United States to use export controls only after full consideration of the impact on the economy of the United States and only to the extent necessary—

(A) to restrict the export of goods and technology which would make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States;

(B) to restrict the export of goods and technology where necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations; and

(C) to restrict the export of goods where necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.

(3) It is the policy of the United States (A) to apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to encourage observance of a uniform export control policy by all nations with which the United States has defense treaty commitments.

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

(5) It is the policy of the United States—

(A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person;

(B) to encourage and, in specified cases, require United States persons engaged in the export of goods or technology or other information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person; and

(C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular goods or technology or other information to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies and private industry.

(7) It is the policy of the United States to use export controls, including license fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make every reasonable effort to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before resorting to the imposition of controls on exports from the United States. No action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies.

(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls.

(9) It is the policy of the United States to cooperate with other countries with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States and of those countries with which the United States has defense treaty commitments.

(10) It is the policy of the United States that export trade by United States citizens be given a high priority and not be controlled except when such controls (A) are necessary to further fundamental national security, foreign policy, or short supply objectives, (B) will clearly further such objectives, and (C) are administered consistent with basic standards of due process.

(11) It is the policy of the United States to minimize restrictions on the export of agricultural commodities and products.

GENERAL PROVISIONS

SEC. 4. (a) TYPES OF LICENSES.—Under such conditions as may be imposed by the Secretary which are consistent with the provisions of this Act, the Secretary may require any of the following types of export licenses:

(1) A validated license, authorizing a specific export, issued pursuant to an application by the exporter.

(2) A qualified general license, authorizing multiple exports, issued pursuant to an application by the exporter.

(3) A general license, authorizing exports without application by the exporter.

(4) Such other licenses as may assist in the effective and efficient implementation of this Act.

(b) COMMODITY CONTROL LIST.—The Secretary shall establish and maintain a list (hereinafter in this Act referred to as the "commodity control list") consisting of any goods or technology subject to export controls under this Act.

(c) FOREIGN AVAILABILITY.—In accordance with the provisions of this Act, the President shall not impose export controls for foreign policy or national security purposes on the export from the United States of goods or technology which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States.

(d) RIGHT OF EXPORT.—No authority or permission to export may be required under this Act, or under regulations issued under this Act, except to carry out the policies set forth in section 3 of this Act.

(e) DELEGATION OF AUTHORITY.—The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may consider appropriate, except that no authority under this Act may be delegated to, or exercised by, any official of any department or agency the head of which is not appointed by the President, by and with the advice and consent of the Senate. The President may not delegate or transfer his power, authority, and discretion to overrule or modify any recommendation or decision made by the Secretary, the Secretary of Defense, or the Secretary of State pursuant to the provisions of this Act.

(f) NOTIFICATION OF THE PUBLIC; CONSULTATION WITH BUSINESS.—The Secretary shall

keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Secretary shall meet regularly with representatives of the business sector in order to obtain their views on export control policy and the foreign availability of goods and technology.

NATIONAL SECURITY CONTROLS

SEC. 5. (a) AUTHORITY.—(1) In order to carry out the policy set forth in section 3(2)(A) of this Act, the President may, in accordance with the provisions of this section, prohibit or curtail the export of any goods or technology subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of Defense, and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses described in section 4(a) of this Act.

(2)(A) Whenever the Secretary makes any revision with respect to any goods or technology, or with respect to the countries or destinations, affected by export controls imposed under this section, the Secretary shall publish in the Federal Register a notice of such revision and shall specify in such notice that the revision relates to controls imposed under the authority contained in this section.

(B) Whenever the Secretary denies any export license under this section, the Secretary shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this section. The Secretary shall also include in such notice what, if any, modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with controls imposed under this section, or the Secretary shall indicate in such notice which officers and employees of the Department of Commerce who are familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restriction, if appropriate.

(3) In issuing regulations to carry out this section, particular attention shall be given to the difficulty of devising effective safeguards to prevent a country that poses a threat to the security of the United States from diverting critical technologies to military use, the difficulty of devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the reexport of critical technologies from other countries to countries that pose a threat to the security of the United States. Such regulations shall not be based upon the assumption that such effective safeguards can be devised.

(b) POLICY TOWARD INDIVIDUAL COUNTRIES.—In administering export controls for national security purposes under this section, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President considers appropriate. The President shall review not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, United States policy toward individual countries to determine whether such policy is appropriate in light of the factors specified in the preceding sentence.

(c) CONTROL LIST.—(1) The Secretary shall establish and maintain, as part of the commodity control list, a list of all goods and technology subject to export controls under this section. Such goods and technology shall be clearly identified as being subject to controls under this section.

(2) The Secretary of Defense and other appropriate departments and agencies shall identify goods and technology for inclusion on the list referred to in paragraph (1). Those items which the Secretary and the Secretary of Defense concur shall be subject to export controls under this section shall comprise such list. If the Secretary and the Secretary of Defense are unable to concur on such items, the matter shall be referred to the President for resolution.

(3) The Secretary shall issue regulations providing for review of the list established pursuant to this subsection not less frequently than every three years in the case of controls maintained cooperatively with other countries, and annually in the case of all other controls, in order to carry out the policy set forth in section 3(2)(A) and the provisions of this section, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments, with or without oral presentation. Such regulations shall further provide that, as part of such review, an assessment be made of the availability from sources outside the United States, or any of its territories or possessions, of goods and technology comparable to those controlled under this section. The Secretary and any agency rendering advice with respect to export controls shall keep adequate records of all decisions made with respect to revision of the list of controlled goods and technology, including the factual and analytical basis for the decision, and, in the case of the Secretary, any dissenting recommendations received from any agency.

(d) MILITARILY CRITICAL TECHNOLOGIES.—(1) The Secretary, in consultation with the Secretary of Defense, shall review and revise the list established pursuant to subsection (c), as prescribed in paragraph (3) of such subsection, for the purpose of insuring that export controls imposed under this section cover and (to the maximum extent consistent with the purposes of this Act) are limited to militarily critical goods and technologies and the mechanisms through which such goods and technologies may be effectively transferred.

(2) The Secretary of Defense shall bear primary responsibility for developing a list of militarily critical technologies. In developing such list, primary emphasis shall be given to—

(A) arrays of design and manufacturing know-how,

(B) keystone manufacturing, inspection, and test equipment, and

(C) goods accompanied by sophisticated operation, application, or maintenance know-how,

which are not possessed by countries to which exports are controlled under this section and which, if exported, would permit a significant advance in a military system of any such country.

(3) The list referred to in paragraph (2) shall be sufficiently specific to guide the determinations of any official exercising export licensing responsibilities under this Act.

(4) The initial version of the list referred to in paragraph (2) shall be completed and published in an appropriate form in the Federal Register not later than October 1, 1980.

(5) The list of militarily critical technologies developed primarily by the Secretary of Defense pursuant to paragraph (2) shall become a part of the commodity control list, subject to the provisions of subsection (c) of this section.

(6) The Secretary of Defense shall report annually to the Congress on actions taken to carry out this subsection.

(e) EXPORT LICENSES.—(1) The Congress finds that the effectiveness and efficiency of the process of making export licensing determinations under this section is severely hampered by the large volume of validated export license applications required to be submitted under this Act. Accordingly, it is the intent of Congress in this subsection to encourage the use of a qualified general license in lieu of a validated license.

(2) To the maximum extent practicable, consistent with the national security of the United States, the Secretary shall require a validated license under this section for the export of goods or technology only if—

(A) the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, under the terms of such multilateral agreement, such export requires the specific approval of the parties to such multilateral agreement;

(B) with respect to such goods or technology, other nations do not possess capabilities comparable to those possessed by the United States; or

(C) the United States is seeking the agreement of other suppliers to apply comparable controls to such goods or technology and, in the judgment of the Secretary, United States export controls on such goods or technology, by means of such license, are necessary pending the conclusion of such agreement.

(3) To the maximum extent practicable, consistent with the national security of the United States, the Secretary shall require a qualified general license, in lieu of a validated license, under this section for the export of goods or technology if the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party, but such export does not require the specific approval of the parties to such multilateral agreement.

(4) Not later than July 1, 1980, the Secretary shall establish procedures for the approval of goods and technology that may be exported pursuant to a qualified general license.

(f) FOREIGN AVAILABILITY.—(1) The Secretary, in consultation with appropriate Government agencies and with appropriate technical advisory committees established pursuant to subsection (h) of this section, shall review, on a continuing basis, the availability, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, of any goods or technology the export of which requires a validated license under this section. In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that any such goods or technology are available in fact to such destinations from such sources in sufficient quantity and of sufficient quality so that the requirement of a validated license for the export of such goods or technology is or would be ineffective in achieving the purpose set forth in subsection (a) of this section, the Secretary may not, after the determination is made, require a validated license for the export of such goods or technology during the period of such foreign availability, unless the President determines that the absence of export controls under

this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination together with a concise statement of its basis, and the estimated economic impact of the decision.

(2) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a particular country and which meets all other requirements for such an application, if the Secretary determines that such goods or technology will, if the license is denied, be available in fact to such country from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of sufficient quality so that denial of the license would be ineffective in achieving the purpose set forth in subsection (a) of this section, subject to the exception set forth in paragraph (1) of this subsection. In any case in which the Secretary makes a determination of foreign availability under this paragraph with respect to any goods or technology, the Secretary shall determine whether a determination of foreign availability under paragraph (1) with respect to such goods or technology is warranted.

(3) With respect to export controls imposed under this section, any determination of foreign availability which is the basis of a decision to grant a license for, or to remove a control on, the export of a good or technology, shall be made in writing and shall be supported by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability.

(4) In any case in which, in accordance with this subsection, export controls are imposed under this section notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. Whenever the President has reason to believe goods or technology subject to export control for national security purposes by the United States may become available from other countries to countries to which exports are controlled under this section and that such availability can be prevented or eliminated by means of negotiations with such other countries, the President shall promptly initiate negotiations with the governments of such other countries to prevent such foreign availability.

(5) In order to further carry out the policies set forth in this Act, the Secretary shall establish, within the Office of Export Administration of the Department of Commerce, a capability to monitor and gather information with respect to the foreign availability of any goods or technology subject to export controls under this Act.

(6) Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, shall, consistent with the protection of intelligence sources and methods, furnish information to the Office of Export Administration concerning foreign availability of goods and technology subject to export controls under this Act, and such Office, upon request or where appropriate, shall furnish to such departments and agencies the information it gathers and receives concerning foreign availability.

(g) INDEXING.—In order to ensure that requirements for validated licenses and qualified general licenses are periodically removed as goods or technology subject to such requirements become obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for annual increases in the performance levels of goods or technology subject to any such licensing requirement. Any such goods or technology which no longer meet the performance levels established by the latest such increase shall be removed from the list established pursuant to subsection (c) of this section unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other department or agency of the United States objects to such removal and the Secretary determines, on the basis of such objection, that the goods or technology shall not be removed from the list. The Secretary shall also consider, where appropriate, removing site visitation requirements for goods and technology which are removed from the list unless objections described in this subsection are raised.

(h) TECHNICAL ADVISORY COMMITTEES.—(1) Upon written request by representatives of a substantial segment of any industry which produces any goods or technology subject to export controls under this section or being considered for such controls because of their significance to the national security of the United States, the Secretary shall appoint a technical advisory committee for any such goods or technology which the Secretary determines are difficult to evaluate because of questions concerning technical matters, worldwide availability, and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and Government, including the Departments of Commerce, Defense, and State, and, in the discretion of the Secretary, other Government departments and agencies. No person serving on any such committee who is a representative of industry shall serve on such committee for more than four consecutive years.

(2) Technical advisory committees established under paragraph (1) shall advise and assist the Secretary, the Secretary of Defense, and any other department, agency, or official of the Government of the United States to which the President delegates authority under this Act, with respect to actions designed to carry out the policy set forth in section 3(2)(A) of this Act. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. Nothing in this subsection shall prevent the Secretary or the Secretary of Defense from consulting, at any time, with any person representing industry or the general public, regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary, to present evidence to such committees.

(3) Upon request of any member of any such committee, the Secretary may, if the Secretary determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by such member in connection with the duties of such member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the chairman, unless the chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this subsection. Each such committee shall be terminated after a period of two years, unless extended by the Secretary for additional periods of two years. The Secretary shall consult each such committee with respect to such termination or extension of that committee.

(5) To facilitate the work of the technical advisory committees, the Secretary, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the goods or technology with respect to which that committee furnishes advice.

(6) Whenever a technical advisory committee certifies to the Secretary that goods or technology with respect to which such committee was appointed have become available in fact, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of sufficient quality so that requiring a validated license for the export of such goods or technology would be ineffective in achieving the purpose set forth in subsection (a) of this section, and provides adequate documentation for such certification, in accordance with the procedures established pursuant to subsection (f)(1) of this section, the Secretary shall investigate such availability, and if such availability is verified, the Secretary shall remove the requirement of a validated license for the export of the goods or technology, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination together with a concise statement of its basis and the estimated economic impact of the decision.

(i) MULTILATERAL EXPORT CONTROLS.—The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee (hereinafter in this subsection referred to as the "Committee") with a view toward accomplishing the following objectives:

(1) Agreement to publish the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such agreement of the Committee, and all changes thereto.

(2) Agreement to hold periodic meetings with high-level representatives of such governments, for the purpose of discussing export control policy issues and issuing policy guidance to the Committee.

(3) Agreement to reduce the scope of the export controls imposed by agreement of the Committee to a level acceptable to and enforceable by all governments participating in the Committee.

(4) Agreement on more effective procedures for enforcing the export controls agreed to pursuant to paragraph (3).

(j) COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES.—(1) Any United States firm, enterprise, or other nongovernmental entity which, for commercial purposes, enters into any agreement with any agency of the government of a country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement (to which the United States and such country are parties) calling for the encouragement of technical cooperation and is intended to result in the export

from the United States to the other party of unpublished technical data of United States origin, shall report the agreement with such agency to the Secretary.

(2) The provisions of paragraph (1) shall not apply to colleges, universities, or other educational institutions.

(k) NEGOTIATIONS WITH OTHER COUNTRIES.—The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with other countries regarding their cooperation in restricting the export of goods and technology in order to carry out the policy set forth in section 3(9) of this Act, as authorized by subsection (a) of this section, including negotiations with respect to which goods and technology should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.

(l) DIVERSION TO MILITARY USE OF CONTROLLED GOODS OR TECHNOLOGY.—(1) Whenever there is reliable evidence that goods or technology, which were exported subject to national security controls under this section to a country to which exports are controlled for national security purposes, have been diverted to significant military use in violation of the conditions of an export license, the Secretary, for as long as that diversion to significant military use continues—

(A) shall deny all further exports to the party responsible for that diversion of any goods or technology subject to national security controls under this section which contribute to that particular military use, regardless of whether such goods or technology are available to that country from sources outside the United States; and

(B) may take such additional steps under this Act with respect to the party referred to in subparagraph (A) as are feasible to deter the further military use of the previously exported goods or technology.

(2) As used in this subsection, the terms "diversion to significant military use" and "significant military use" means the use of United States goods or technology to design or produce any item on the United States Munitions List.

FOREIGN POLICY CONTROLS

SEC. 6. (a) AUTHORITY.—(1) In order to carry out the policy set forth in paragraph (2)(B), (7), or (8) of section 3 of this Act, the President may prohibit or curtail the exportation of any goods, technology, or other information subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, to the extent necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations. The authority granted by this subsection shall be exercised by the Secretary, in consultation with the Secretary of State and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses issued by the Secretary.

(2) Export controls maintained for foreign policy purposes shall expire on December 31, 1979, or one year after imposition, whichever is later, unless extended by the President in accordance with subsections (b) and (e). Any such extension and any subsequent extension shall not be for a period of more than one year.

(3) Whenever the Secretary denies any export license under this subsection, the Secretary shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this subsection, and the reasons for such denial, with reference to the criteria set forth in subsection (b) of this section. The Secretary shall also include in such notice what, if any, modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with controls implemented under this section, or the Secretary shall indicate in such notice which officers and employees of the Department of Commerce who are familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restrictions, if appropriate.

(4) In accordance with the provisions of section 10 of this Act, the Secretary of State shall have the right to review any export license application under this section which the Secretary of State requests to review.

(b) CRITERIA.—When imposing, expanding, or extending export controls under this section, the President shall consider—

(1) the probability that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;

(2) the compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

(3) the reaction of other countries to the imposition or expansion of such export controls by the United States;

(4) the likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, on the international reputation of the United States as a supplier of goods and technology, and on individual United States companies and their employees and communities, including the effects of the controls on existing contracts;

(5) the ability of the United States to enforce the proposed controls effectively; and

(6) the foreign policy consequences of not imposing controls.

(c) CONSULTATION WITH INDUSTRY.—The Secretary, before imposing export controls under this section, shall consult with such affected United States industries as the Secretary considers appropriate, with respect to the criteria set forth in paragraphs (1) and (4) of subsection (b) and such other matters as the Secretary considers appropriate.

(d) ALTERNATIVE MEANS.—Before resorting to the imposition of export controls under this section, the President shall determine that reasonable efforts have been made to achieve the purposes of the controls through negotiations or other alternative means.

(e) NOTIFICATION TO CONGRESS.—The President in every possible instance shall consult with the Congress before imposing any export control under this section. Except as provided in section 7(g)(3) of this Act, whenever the President imposes, expands, or extends export controls under this section, the President shall immediately notify the Congress of such action and shall submit with such notification a report specifying—

(1) the conclusions of the President with respect to each of the criteria set forth in subsection (b); and

(2) the nature and results of any alternative means attempted under subsection (d), or the reasons for imposing, extending, or expanding the control without attempting any such alternative means.

Such report shall also indicate how such controls will further significantly the foreign policy of the United States or will further its declared international obligations. To the extent necessary to further the effectiveness of such export control, portions of such report may be submitted on a classified basis, and shall be subject to the provisions of section 12(c) of this Act.

(f) EXCLUSION FOR MEDICINE AND MEDICAL SUPPLIES.—This section does not authorize export controls on medicine or medical supplies. It is the intent of Congress that the President not impose export controls under this section on any goods or technology if he determines that the principal effect of the export of such goods or technology would be to help meet basic human needs. This subsection shall not be construed to prohibit the President from imposing restrictions on the export of medicine or medical supplies under the International Emergency Economic Powers Act. This subsection shall not apply to any export control on medicine or medical supplies which is in effect on the effective date of this Act.

(g) FOREIGN AVAILABILITY.—In applying export controls under this section, the President shall take all feasible steps to initiate and conclude negotiations with appropriate foreign governments for the purpose of securing the cooperation of such foreign governments in controlling the export to countries and consignees to which the United States export controls apply of any goods or technology comparable to goods or technology controlled under this section.

(h) INTERNATIONAL OBLIGATIONS.—The provisions of subsections (b), (c), (d), (f), and (g) shall not apply in any case in which the President exercises the authority contained in this section to impose export controls, or to approve or deny export license applications, in order to fulfill obligations of the United States pursuant to treaties to which the United States is a party or pursuant to other international agreements.

(i) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate before any license is approved for the export of goods or technology valued at more than $7,000,000 to any country concerning which the Secretary of State has made the following determinations:

(1) Such country has repeatedly provided support for acts of international terrorism.

(2) Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.

(j) CRIME CONTROL INSTRUMENTS.—(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary only pursuant to a validated export license.

(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia or New Zealand, or to such other countries as the President shall designate consistent with the purposes of this subsection and section 502B of the Foreign Assistance Act of 1961.

(k) CONTROL LIST.—The Secretary shall establish and maintain, as part of the commodity control list, a list of any goods or technology subject to export controls under this section, and the countries to which such controls apply. Such goods or technology shall be clearly identified as subject to controls under this section. Such list shall consist of goods and technology identified by the Secretary of State, with the concurrence of the Secretary. If the Secretary and the Secretary of State are unable to agree on the list, the matter shall be referred to the President. Such list shall be reviewed not less frequently than every three years in the case of controls maintained cooperatively with other countries, and annually in the case of all other controls, for the purpose of making such revisions as are necessary in order

to carry out this section. During the course of such review, an assessment shall be made periodically of the availability from sources outside the United States, or any of its territories or possessions, of goods and technology comparable to those controlled for export from the United States under this section.

SHORT SUPPLY CONTROLS

SEC. 7. (a) AUTHORITY.—(1) In order to carry out the policy set forth in section 3(2)(C) of this Act, the President may prohibit or curtail the export of any goods subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. In curtailing exports to carry out the policy set forth in section 3(2)(C) of this Act, the President shall allocate a portion of export licenses on the basis of factors other than a prior history of exportation. Such factors shall include the extent to which a country engages in equitable trade practices with respect to United States goods and treats the United States equitably in times of short supply.

(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy set forth in section 3(2)(C) of this Act, the Secretary shall include in a notice published in the Federal Register with respect to such restrictions an invitation to all interested parties to submit written comments within 15 days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.

(3) In imposing export controls under this section, the President's authority shall include, but not be limited to, the imposition of export license fees.

(b) MONITORING.—(1) In order to carry out the policy set forth in section 3(2)(C) of this Act, the Secretary shall monitor exports, and contracts for exports, of any good (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy or any sector thereof. Any such monitoring shall commence at a time adequate to assure that the monitoring will result in a data base sufficient to enable policies to be developed, in accordance with section 3(2)(C) of this Act, to mitigate a short supply situation or serious inflationary price rise or, if export controls are needed, to permit imposition of such controls in a timely manner. Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each item monitored, actual and anticipated exports, the destination by contrary, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports.

(3) The Secretary shall consult with the Secretary of Energy to determine whether monitoring or export controls under this section are warranted with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including, but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.

(c) PETITIONS FOR MONITORING OR CONTROLS.—(1)(A) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes metallic materials capable of being recycled with respect to which an increase in domestic prices or a domestic shortage, either of which results from increased exports, has or may have a significant adverse effect on the national economy or any sector thereof, may transmit a written petition to the Secretary requesting the monitoring of exports, or the imposition of export controls, or both, with respect to such material, in order to carry out the policy set forth in section 3(2)(C) of this Act.

(B) Each petition shall be in such form as the Secretary shall prescribe and shall contain information in support of the action requested. The petition shall include any information reasonably available to the petitioner indicating (i) that there has been a significant increase, in relation to a specific period of time, in exports of such material in relation to domestic supply, and (ii) that there has been a significant increase in the price of such material or a domestic shortage of such material under circumstances indicating the price increase or domestic shortage may be related to exports.

(2) Within 15 days after receipt of any petition described in paragraph (1), the Secretary shall publish a notice in the Federal Register. The notice shall (A) include the name of the material which is the subject of the petition, (B) include the Schedule B number of the material as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (C) indicate whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material, and (D) provide that interested persons shall have a period of 30 days commencing with the date of publication of such notice to submit to the Secretary written data, views, or arguments, with or without opportunity for oral presentation, with respect to the matter involved. At the request of the petitioner or any other entity described in paragraph (1)(A) with respect to the material which is the subject of the petition, or at the request of any entity representative of producers or exporters of such material, the Secretary shall conduct public hearings with respect to the subject of the petition, in which case the 30-day period may be extended to 45 days.

(3) Within 45 days after the end of the 30- or 45-day period described in paragraph (2), as the case may be, the Secretary shall—

(A) determine whether to impose monitoring or controls, or both, on the export of such material, in order to carry out the policy set forth in section 3(2)(C) of this Act; and

(B) publish in the Federal Register a detailed statement of the reasons for such determination.

(4) Within 15 days after making a determination under paragraph (3) to impose monitoring or controls on the export of a material, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within 30 days following the publication of such proposed regulations, and after considering any public comments thereon, the Secretary shall publish and implement final regulations with respect to such monitoring or controls.

(5) For purposes of publishing notices in the Federal Register and scheduling public hearings pursuant to this subsection, the Secretary may consolidate petitions, and responses thereto, which involve the same or related materials.

(6) If a petition with respect to a particular material or group of materials has been considered in accordance with all the procedures prescribed in this subsection, the Secretary may determine, in the absence of significantly changed circumstances, that any other petition with respect to the same material or group of materials which is filed within six months after consideration of the prior petition has been completed does not merit complete consideration under this subsection.

(7) The procedures and time limits set forth in this subsection with respect to a petition filed under this subsection shall take precedence over any review undertaken at the initiative of the Secretary with respect to the same subject as that of the petition.

(8) The Secretary may impose monitoring or controls on a temporary basis after a petition is filed under paragraph (1)(A) but before the Secretary makes a determination under paragraph (3) if the Secretary considers such action to be necessary to carry out the policy set forth in section 3(2)(C) of this Act.

(9) The authority under this subsection shall not be construed to affect the authority of the Secretary under any other provision of this Act.

(10) Nothing contained in this subsection shall be construed to preclude submission on a confidential basis to the Secretary of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, or to preclude consideration of such information by the Secretary in reaching decisions required under this subsection. The provisions of this paragraph shall not be construed to affect the applicability of section 552(b) of title 5, United States Code.

(d) DOMESTICALLY PRODUCED CRUDE OIL.—(1) Notwithstanding any other provision of this Act and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), no domestically produced crude oil transported by pipeline over right-of-way granted pursuant to section 208 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) (except any such crude oil which (A) is exported to an adjacent foreign country to be refined and consumed therein in exchange for the same quantity of crude oil being exported from that country to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in paragraph (2)(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign country and reenters the United States) may be exported from the United States, or any of its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) the President makes and publishes express findings that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) will, within three months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refiners which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil in the absence of

such an export or exchange, and (II) not less than 75 percent of such savings in costs being reflected in wholesale and retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(iv) are clearly necessary to protect the national interest; and

(v) are in accordance with provisions of this Act; and

(B) the President reports such findings to the Congress and the Congress, within 60 days thereafter, agrees to a concurrent resolution approving such exports on the basis of the findings.

(3) Notwithstanding any other provision of this section or any other provision of law, including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil to any country pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before June 25, 1979, or to any country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency.

(e) REFINED PETROLEUM PRODUCTS.—(1) o refined petroleum product may be exported except pursuant to an export license specifically authorizing such export. Not later than five days after an application for a license to export any refined petroleum product or residual fuel oil is received, the Secretary shall notify the Congress of such application, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export. Such notification shall be made to the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) The Secretary may not grant such license during the 30-day period beginning on the date on which notification to the Congress under paragraph (1) is received, unless President certifies in writing to the Speaker of the House of Representatives and President pro tempore of the Senate that proposed export is vital to the national interest and that a delay in issuing the license would adversely affect that interest.

(3) This subsection shall not apply to (A) y export license application for exports to country with respect to which historical port quotas established by the Secretary on basis of past trading relationships apply, (B) any license application for exports to country if exports under the license would ot result in more than 250,000 barrels of efined petroleum products being exported om the United States to such country in ny fiscal year.

(4) For purposes of this subsection, "refined petroleum product" means gasoline, erosene, distillates, propane or butane gas, esel fuel, and residual fuel oil refined within the United States or entered for consumption within the United States.

(5) The Secretary may extend any time eriod prescribed in section 10 of this Act the extent necessary to take into account lays in action by the Secretary on a license plication on account of the provisions of subsection.

(f) CERTAIN PETROLEUM PRODUCTS.—Peleum products refined in United States oreign Trade Zones, or in the United States erritory of Guam, from foreign crude oil ll be excluded from any quantitative rerictions imposed under this section except t, if the Secretary finds that a product is short supply, the Secretary may issue such gulations as may be necessary to limit ports.

(g) AGRICULTURAL COMMODITIES.—(1) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by the Secretary of Agriculture to be in excess of the requirements of the domestic economy except to the extent the President determines that such exercise of authority is required to carry out the policies set forth in subparagraph (A) or (B) of paragraph (2) of section 3 of this Act. The Secretary of Agriculture shall, by exercising the authorities which the Secretary of Agriculture has under other applicable provisions of law, collect data with respect to export sales of animal hides and skins.

(2) Upon approval of the Secretary, 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 to carry out the policy set forth in section 3(2)(C) of this Act subsequent to such approval. The Secretary may not grant such approval unless the Secretary receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds (A) that such commodities will eventually be exported, (B) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (C) that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (D) 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 may issue such regulations as may be necessary to implement this paragraph.

(3) If the authority conferred by this section or section 6 is exercised to prohibit or curtail the export of any agricultural commodity in order to carry out the policies set forth in subparagraph (B) or (C) of paragraph (2) of section 3 of this Act, the President shall immediately report such prohibition or curtailment to the Congress, setting forth the reasons therefor in detail. If the Congress, within 30 days after the date of its receipt of such report, adopts a concurrent resolution disapproving such prohibition or curtailment, then such prohibition or curtailment shall cease to be effective with the adoption of such resolution. In the computation of such 30-day period, there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.

(h) BARTER AGREEMENTS.—(1) The exportation pursuant to a barter agreement of any goods which may lawfully be exported from the United States, for any goods which may lawfully be imported into the United States, may be exempted, in accordance with paragraph (2) of this subsection, from any quantitative limitation on exports (other than any reporting requirement) imposed to carry out the policy set forth in section 3(2)(C) of this Act.

(2) The Secretary shall grant an exemption under paragraph (1) if the Secretary finds, after consultation with the appropriate department or agency of the United States, that—

(A) for the period during which the barter agreement is to be performed—

(i) the average annual quantity of the goods to be exported pursuant to the barter agreement will not be required to satisfy the average amount of such goods estimated to be required annually by the domestic economy and will be surplus thereto; and

(ii) the average annual quantity of the goods to be imported will be less than the average amount of such goods estimated to be required annually to supplement domestic production; and

(B) the parties to such barter agreement have demonstrated adequately that they intend, and have the capacity, to perform such barter agreement.

(3) For purposes of this subsection, the term "barter agreement" means any agreement which is made for the exchange, without monetary consideration, of any goods produced in the United States for any goods produced outside of the United States.

(4) This subsection shall apply only with respect to barter agreements entered into after the effective date of this Act.

(i) UNPROCESSED RED CEDAR.—(1) The Secretary shall require a validated license, under the authority contained in subsection (a) of this section, for the export of unprocessed western red cedar (Thuja plicata) logs, harvested from State or Federal lands. The Secretary shall impose quantitative restrictions upon the export of unprocessed western red cedar logs during the 3-year period beginning on the effective date of this Act as follows:

(A) Not more than thirty million board feet scribner of such logs may be exported during the first year of such 3-year period.

(B) Not more than fifteen million board feet scribner of such logs may be exported during the second year of such period.

(C) Not more than five million board feet scribner of such logs may be exported during the third year of such period.

After the end of such 3-year period, no unprocessed western red cedar logs may be exported from the United States.

(2) The Secretary shall allocate export licenses to exporters pursuant to this subsection on the basis of a prior history of exportation by such exporters and such other factors as the Secretary considers necessary and appropriate to minimize any hardship to the producers of western red cedar and to further the foreign policy of the United States.

(3) Unprocessed western red cedar logs shall not be considered to be an agricultural commodity for purposes of subsection (g) of this section.

(4) As used in this subsection, the term "unprocessed western red cedar" means red cedar timber which has not been processed into—

(A) lumber without wane;

(B) chips, pulp, and pulp products;

(C) veneer and plywood;

(D) poles, posts, or pilings cut or treated with preservative for use as such and not intended to be further processed; or

(E) shakes and shingles.

(j) EXPORT OF HORSES.—(1) Notwithstanding any other provision of this Act, no horse may be exported by sea from the United States, or any of its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under paragraph (2) of this subsection.

(2) The Secretary, in consultation with the Secretary of Agriculture, may issue regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

FOREIGN BOYCOTTS

SEC. 8. (a) PROHIBITIONS AND EXCEPTIONS.—(1) For the purpose of implementing the policies set forth in subparagraph (A) or (B) of paragraph (5) of section 3 of this

Act, the President shall issue regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotting country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the imports of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms, other than with respect to carriers or route of shipment as may be permitted by such regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his own use, including the performance of contractual services within that country, as may be defined by such regulations.

(3) Regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) This section shall apply to any transaction or activity undertaken, by or through a United States person or any other person, with intent to evade the provisions of this section as implemented by the regulations issued pursuant to this subsection, and such regulations shall expressly provide that the exception set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b) FOREIGN POLICY CONTROLS.—(1) In addition to the regulations issued pursuant to subsection (a) of this section, regulations issued under section 6 of this Act shall implement the policies set forth in section 3(5).

(2) Such regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) shall report that fact to the Secretary, together with such other information concerning such request as the Secretary may require for such action as the Secretary considers appropriate for carrying out the policies of that section. Such person shall also report to the Secretary whether such person intends to comply and whether such person has complied with such request. Any report filed pursuant to this paragraph shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any goods or technology to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary, considers appropriate for carrying out the policies set forth in section 3(5) of this Act.

(c) PREEMPTION.—The provisions of this section and the regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, or any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

SEC. 9. (a) FILING OF PETITIONS.—Any person who, in such person's domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a good historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a good, may transmit a petition of hardship to the Secretary requesting an exemption from such controls in order to alleviate any unique hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Secretary shall prescribe and shall contain information demonstrating the need for the relief requested.

(b) DECISION OF THE SECRETARY.—Not later than 30 days after receipt of any petition under subsection (a), the Secretary shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Secretary's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Secretary considers appropriate.

(c) FACTORS TO BE CONSIDERED.—For purposes of this section, the Secretary's decision with respect to the grant or denial of relief from unique hardship resulting directly or indirectly from the imposition of export controls shall reflect the Secretary's consideration of factors such as the following:

(1) Whether denial would cause a unique hardship to the petitioner which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Secretary shall take into account—

(A) ownership of material for which there is no practicable domestic market by virtue of the location or nature of the material;

(B) potential serious financial loss to the applicant if not granted an exception;

(C) inability to obtain, except through import, an item essential for domestic use which is produced abroad from the good under control;

(D) the extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

(E) possible adverse effects on the economy (including unemployment) in any locality or region of the United States; and

(F) other relevant factors, including the applicant's lack of an exporting history dur-

ing any base period that may be established with respect to export quotas for the particular good.

The effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

In all cases, the desire to sell at higher prices and thereby obtain greater profits shall not be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the petitioner.

PROCEDURES FOR PROCESSING EXPORT LICENSE APPLICATIONS

SEC. 10. (a) PRIMARY RESPONSIBILITY OF THE SECRETARY.—(1) All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this section.

(2) It is the intent of the Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other department or agency of the Government.

(3) To the extent necessary, the Secretary shall seek information and recommendations from the Government departments and agencies concerned with aspects of United States domestic and foreign policies and operations having an important bearing on exports. Such departments and agencies shall cooperate fully in rendering such information and recommendations.

(b) INITIAL SCREENING.—Within ten days after the date on which any export license application is submitted pursuant to subsection (a)(1), the Secretary shall—

(1) send the applicant an acknowledgment of the receipt of the application and the date of the receipt;

(2) submit to the applicant a written description of the procedures required by this section, the responsibilities of the Secretary and of other departments and agencies with respect to the application, and the rights of the applicant;

(3) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this section;

(4) determine whether it is necessary to refer the application to any other department or agency and, if such referral is determined to be necessary, inform the applicant of any such department or agency to which the application will be referred; and

(5) determine whether it is necessary to submit the application to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, if so, inform the applicant of this requirement.

(c) ACTION ON CERTAIN APPLICATIONS.—In each case in which the Secretary determines that it is not necessary to refer an application to any other department or agency for its information and recommendations, a license shall be formally issued or denied within 90 days after a properly completed application has been submitted pursuant to this section.

(d) REFERRAL TO OTHER DEPARTMENTS AND AGENCIES.—In each case in which the Secretary determines that it is necessary to refer an application to any other department or agency for its information and recommendations, the Secretary shall, within 30 days after the submission of a properly completed application—

(1) refer the application, together with all necessary analysis and recommendations of the Department of Commerce, concurrently to all such departments or agencies; and

(2) if the applicant so requests, provide the applicant with an opportunity to review for accuracy and documentation to be referred to any such department or agency with respect to such application for the purpose of describing the export in question in order to determine whether such documentation accurately describes the proposed export.

(e) ACTION BY OTHER DEPARTMENTS AND AGENCIES.—(1) Any department or agency to which an application is referred pursuant to subsection (d) shall submit to the Secretary, within 30 days after its receipt of the application, the information or recommendations requested with respect to such application. Except as provided in paragraph (2), any such department or agency which does not submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the Secretary to have no objection to the approval of such application.

(2) If the head of any such department or agency notifies the Secretary before the expiration of the time period provided in paragraph (1) for submission of its recommendations that more time is required for review by such department or agency, such department or agency shall have an additional 30-day period to submit its recommendations to the Secretary. If such department or agency does not submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the Secretary to have no objection to the approval of such application.

(f) ACTION BY THE SECRETARY.—(1) Within 90 days after receipt of the recommendations of other departments and agencies with respect to a license application, as provided in subsection (e), the Secretary shall formally issue or deny the license. In deciding whether to issue or deny a license, the Secretary shall take into account any recommendation of a department or agency with respect to the application in question. In cases where the Secretary receives conflicting recommendations, the Secretary shall, within the 90-day period provided for in this subsection, take such action as may be necessary to resolve such conflicting recommendations.

(2) In cases where the Secretary receives questions or negative considerations or recommendations from any other department or agency with respect to an application, the Secretary shall, to the maximum extent consistent with the national security and foreign policy of the United States, inform the applicant of the specific questions raised and any such negative consideration or recommendations, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations.

(3) In cases where the Secretary has determined that an application should be denied, the applicant shall be informed in writing, within five days after such determination is made, of the determination, of the statutory basis for denial, the policies set forth in section 3 of the Act which would be furthered by denial, and, to the extent consistent with the national security and foreign policy of the United States, the specific considerations which led to the denial, and of the availability of appeal procedures. In the event decisions on license applications are deferred inconsistent with the provisions of this section, the applicant shall be so informed in writing within five days after such deferral.

(4) If the Secretary determines that a particular application or set of applications is of exceptional importance and complexity, and that additional time is required for negotiations to modify the application or applications, the Secretary may extend any time period prescribed in this section. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor.

(g) Special Procedures for Secretary of Defense.—(1) Notwithstanding any other provision of this section, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever the Secretary of Defense determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

(2) Notwithstanding any other provision of law, the Secretary of Defense shall determine in consultation with the Secretary, and confirm in writing the types and categories of transactions which should be reviewed by the Secretary of Defense in order to make a determination referred to in paragraph (1). Whenever a license or other authority is requested for the export to any county to which exports are controlled for national security purposes of goods or technology within any such type or category, the Secretary shall notify the Secretary of Defense of such request, and the Secretary may not issue any license or other authority pursuant to such request before the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider any notification submitted by the Secretary pursuant to this paragraph and, not later than 30 days after notification of the request, shall—

(A) recommend to the President that he disapprove any request for the export of the goods or technology involved to the particular country if the Secretary of Defense determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

(B) notify the Secretary that he would recommend approval subject to specified conditions; or

(C) recommend to the Secretary that the export of goods or technology be approved.

If the President notifies the Secretary, within 30 days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country.

(3) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this subsection, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this section.

(4) Whenever the President exercises his authority under this subsection to modify or overrule a recommendation made by the Secretary of Defense or exercises his authority to modify or overrule any recommendation made by the Secretary of Defense under subsection (c) or (d) of section 5 of this Act with respect to the list of goods and technologies controlled for national security purposes, the President shall promptly transmit to the Congress a statement indicating his decision, together with the recommendation of the Secretary of Defense.

(h) MULTILATERAL CONTROLS.—In any case in which an application, which has been finally approved under subsection (c), (f),

or (g) of this section, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such subsections, but the Secretary shall notify the applicant of the approval of the application (and the date of such approval) by the Secretary subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review. If such multilateral review has not resulted in a determination with respect to the application within 60 days after such date, the Secretary's approval of the license shall be final and the license shall be issued, unless the Secretary determines that issuance of the license would prove detrimental to the national security of the United States. At the time at which the Secretary makes such a determination, the Secretary shall notify the applicant of the determination and shall notify the Congress of the determination, the reasons for the determination, the reasons for which the multilateral review could not be concluded within such 60-day period, and the actions planned or being taken by the United States Government to secure conclusion of the multilateral review. At the end of every 60-day period after such notification to Congress, the Secretary shall advise the applicant and the Congress of the status of the application, and shall report to the Congress in detail on the reasons for the further delay and any further actions being taken by the United States Government to secure conclusion of the multilateral review. In addition, at the time at which the Secretary issues or denies the license upon conclusion of the multilateral review, the Secretary shall notify the Congress of such issuance or denial and of the total time required for the multilateral review.

(i) RECORDS.—The Secretary and any department or agency to which any application is referred under this section shall keep accurate records with respect to all applications considered by the Secretary or by any such department or agency, including, in the case of the Secretary, any dissenting recommendations received from any such department or agency.

(j) APPEAL AND COURT ACTION.—The Secretary shall establish appropriate procedures for any applicant to appeal to the Secretary the denial of an export license application of the applicant.

(2) In any case in which any action prescribed in this section is not taken on a license application within the time periods established by this section (except in the case of a time period extended under subsection (f)(4) of which the applicant is notified), the applicant may file a petition with the Secretary requesting compliance with the requirements of this section. When such petition is filed, the Secretary shall take immediate steps to correct the situation giving rise to the petition and shall immediately notify the applicant of such steps.

(3) If, within 30 days after a petition is filed under paragraph (2), the processing of the application has not been brought into conformity with the requirements of this section, or the application has been brought into conformity with such requirements but the Secretary has not so notified the applicant, the applicant may bring an action in an appropriate United States district court for a restraining order, a temporary or permanent injunction, or other appropriate relief, to require compliance with the requirements of this section. The United States district courts shall have jurisdiction to provide such relief, as appropriate.

VIOLATIONS

SEC. 11. (a) IN GENERAL.—Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.

(b) WILLFUL VIOLATIONS.—Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or $100,000, whichever is greater, or imprisoned not more than ten years, or both.

(2) Any person who is issued a validated license under this Act for the export of any good or technology to a controlled country and who, with knowledge that such a good or technology is being used by such controlled country for military or intelligence gathering purposes contrary to the conditions under which the license was issued, willfully fails to report such use to the Secretary of Defense, shall be fined not more than five times the value of the exports involved or $100,000, whichever is greater, or imprisoned for not more than five years, or both. For purposes of this paragraph, "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

(c) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—(1) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(2)(A) The authority under this Act to suspend or revoke the authority of any United States person to export goods or technology may be used with respect to any violation of the regulations issued pursuant to section 8(a) of this Act.

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the regulations issued pursuant to section 8(a) of this Act may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the regulations issued pursuant to section 8(a) of this Act shall be made available for public inspection and copying.

(d) PAYMENT OF PENALTIES.—The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a 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.

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

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

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

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

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this act, or any regulation, order, or license issued under this act; or

(3) the authority to compromise, remit or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

SEC. 12. (a) GENERAL AUTHORITY.—To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949 or the Export Administration Act of 1969, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) IMMUNITY.—No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of section 6002 of title 18, United States Code, shall apply with respect to any individual who specifically claims such privilege.

(c) CONFIDENTIALITY.—(1) Except as otherwise provided by the third sentence of section 8(b)(2) and by section 11(c)(2)(C) of this Act, information obtained under this Act on or before June 30, 1980, which is deemed confidential, including Shippers' Export Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed

unless the Secretary determines that the withholding thereof is contrary to the national interest. Information obtained under this Act after June 30, 1980, may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning, license applications under this Act shall be withheld from public disclosure unless the release of such information is determined by the Secretary to be in the national interest. Enactment of this subsection shall not affect any judicial proceeding commenced under section 552 of title 5, United States Code, to obtain access to boycott reports submitted prior to October 31, 1976, which was pending on May 15, 1979; but such proceeding shall be continued as if this Act had not been enacted.

(2) Nothing in this Act shall be construed as authorizing the withholding of information from the Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.

(d) REPORTING REQUIREMENTS.—In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

(e) SIMPLIFICATION OF REGULATIONS.—The Secretary, in consultation with appropriate United States Government departments and agencies and with appropriate technical advisory committees established under section 5(h), shall review the regulations issued under this Act and the commodity control list in order to determine how compliance with the provisions of this Act can be facilitated by simplifying such regulations, by simplifying or clarifying such list, or by any other means.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 13. (a) EXEMPTION.—Except as provided in section 11(c)(2), the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) PUBLIC PARTICIPATION.—It is the intent of the Congress that, to the extent practicable, all regulations imposing controls on exports under this Act be issued in proposed form with meaningful opportunity for public comment before taking effect. In cases where a regulation imposing controls under this Act is issued with immediate effect, it is the intent of the Congress that meaningful opportunity for public comment also be provided and that the regulation be reissued in final form after public comments have been fully considered.

ANNUAL REPORT

SEC. 14. (a) CONTENTS.—Not later than December 31 of each year, the Secretary shall submit to the Congress a report on the administration of this Act during the preceding fiscal year. All agencies shall cooperate fully with the Secretary in providing information for such report. Such report shall include detailed information with respect to—

(1) the implementation of the policies set forth in section 3;

(2) general licensing activities under sections 5, 6, and 7, and any changes in the exercise of the authorities contained in sections 5(a), 6(a), and 7(a);

(3) the results of the review of United States policy toward individual countries pursuant to section 5(b);

(4) the results, in as much detail as may be included consistent with the national security and the need to maintain the confidentiality of proprietary information, of the actions, including reviews and revisions of export controls maintained for national security purposes required by section 5(c)(3);

(5) actions taken to carry out section 5(d);

(6) changes in categories of items under export control referred to in section 5(e);

(7) determinations of foreign availability made under section 5(f), the criteria used to make such determinations, the removal of any export controls under such section, and any evidence demonstrating a need to impose export controls for national security purposes notwithstanding foreign availability;

(8) actions taken in compliance with section 5(f)(5);

(9) the operation of the indexing system under section 5(g);

(10) consultations with the technical advisory committees established pursuant to section 5(h), the use made of the advice rendered by such committees, and the contributions of such committees toward implementing the policies set forth in this Act;

(11) the effectiveness of export controls imposed under section 6 in furthering the foreign policy of the United States;

(12) export controls and monitoring under section 7;

(13) the information contained in the reports required by section 7(b)(2), together with an analysis of—

(A) the impact on the economy and world trade of shortages or increased prices for commodities subject to monitoring under this Act or section 812 of the Agricultural Act of 1970;

(B) the worldwide supply of such commodities; and

(C) actions being taken by other countries in response to such shortages or increased prices;

(14) actions taken by the President and the Secretary to carry out the antiboycott policies set forth in section 3(5) of this Act;

(15) organizational and procedural changes undertaken in furtherance of the policies set forth in this Act, including changes to increase the efficiency of the export licensing process and to fulfill the requirements of section 10, including an analysis of the time required to process license applications, the number and disposition of export license applications taking more than 90 days to process, and an accounting of appeals received, court orders issued, and actions taken pursuant thereto under subsection (j) of such section;

(16) delegations of authority by the President as provided in section 4(e) of this Act;

(17) efforts to keep the business sector of the Nation informed with respect to policies and procedures adopted under this Act;

(18) any reviews undertaken in furtherance of the policies of this Act, including the results of the review required by section 12(d), and any action taken, on the basis of the review required by section 12(e), to simplify regulations issued under this Act;

(19) violations under section 11 and enforcement activities under section 12; and

(20) the issuance of regulations under the authority of this Act, including an explanation of each case in which regulations were not issued in accordance with the first sentence of section 13(b).

(b) REPORT ON CERTAIN EXPORT CONTROLS.—To the extent that the President determines that the policies set forth in section 3 of this Act require the control of the export of goods and technology other than those subject to multilateral controls, or require more stringent controls than the multilateral controls, the President shall include in each annual report the reasons for the need to impose, or to continue to impose, such controls and the estimated domestic economic impact on the various industries affected by such controls.

(c) REPORT ON NEGOTIATIONS.—The President shall include in each annual report a detailed report on the progress of the negotiations required by section 5(i), until such negotiations are concluded.

REGULATORY AUTHORITY

SEC. 15. The President and the Secretary may issue such regulations as are necessary to carry out the provisions of this Act. Any such regulations issued to carry out the provisions of section 5(a), 6(a), 7(a), or 8(b) may apply to the financing, transporting, or other servicing of exports and the participation therein by any person.

DEFINITIONS

SEC. 16. As used in this Act—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

(2) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

(3) the term "good" means any article, material, supply or manufactured product, including inspection and test equipment, and excluding technical data;

(4) the term "technology" means the information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves; and

(5) the term "Secretary" means the Secretary of Commerce.

EFFECT ON OTHER ACTS

SEC. 17. (a) IN GENERAL.—Nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) COORDINATION OF CONTROLS.—The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(c) CIVIL AIRCRAFT EQUIPMENT.—Notwithstanding any other provision of law, any product (1) which is standard equipment, certified by the Federal Aviation Administration, in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under this Act. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act. For purposes of this subsection, the term "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

(d) NONPROLIFERATION CONTROLS.—(1) Nothing in section 5 or 6 of this Act shall be construed to supersede the procedures pub-

lished by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.

(2) With respect to any export license application which, under the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, is referred to the Subgroup on Nuclear Export Coordination or other interagency group, the provisions of section 10 of this Act shall apply with respect to such license application only to the extent that they are consistent with such published procedures, except that if the processing of any such application under such procedures is not completed within 180 days after the receipt of the application by the Secretary, the applicant shall have the rights of appeal and court action provided in section 10(j) of this Act.

(e) TERMINATION OF OTHER AUTHORITY.—On October 1, 1979, the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611-1613d), is superseded.

AUTHORIZATION OF APPROPRIATIONS

SEC. 18. (a) REQUIREMENT OF AUTHORIZING LEGISLATION.—Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act unless previously and specifically authorized by law.

(b) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

(1) $8,000,000 for each of the fiscal years 1980 and 1981, of which $1,250,000 shall be available for each such fiscal year only for purposes of carrying out foreign availability assessments pursuant to section 5(f)(5), and

(2) such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.

EFFECTIVE DATE

SEC. 19. (a) EFFECTIVE DATE.—This Act shall take effect upon the expiration of the Export Administration Act of 1969.

(b) ISSUANCE OF REGULATIONS.—(1) Regulations implementing the provisions of section 10 of this Act shall be issued and take effect not later than July 1, 1980.

(2) Regulations implementing the provisions of section 7(c) of this Act shall be issued and take effect not later than January 1, 1980.

TERMINATION DATE

SEC. 20. The authority granted by this Act terminates on September 30, 1983, or upon any prior date which the President by proclamation may designate.

SAVINGS PROVISIONS

SEC. 21. (a) IN GENERAL.—All delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under the Export Control Act of 1949 or the Export Administration Act of 1969 and which are in effect at the time this Act takes effect shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act.

(b) ADMINISTRATIVE PROCEEDINGS.—This Act shall not apply to any administrative proceedings commenced or any application for a license made, under the Export Administration Act of 1969, which is pending at the time this Act takes effect.

TECHNICAL AMENDMENTS

SEC. 22. (a) Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) is amended by striking out "sections 6 (c), (d), (e), and (f) and 7 (a) and (c) of the Export Administration Act of 1969" and inserting in lieu thereof "subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1979, and by subsections (a) and (c) of section 12 of such Act".

(b)(1) Section 103(c) of the Energy Policy and Conservation Act (42 U.S.C. 6212(c)) is amended—

(A) by striking out "1969" and inserting in lieu thereof "1979"; and

(B) by striking out "(A)" and inserting in lieu thereof "(C)".

(2) Section 254(e)(3) of such Act (42 U.S.C. 6274(e)(3)) is amended by striking out "section 7 of the Export Administration Act of 1969" and inserting in lieu thereof "section 12 of the Export Administration Act of 1979".

(c) Section 993(c)(2)(D) of the Internal Revenue Code of 1954 (26 U.S.C. 993(c)(2)(D)) is amended—

(1) by striking out "4(b) of the Export Administration Act of 1969 (50 U.S.C. App. 2403(b))" and inserting in lieu thereof "7(a) of the Export Administration Act of 1979"; and

(2) by striking out "(A)" and inserting in lieu thereof "(C)".

INTERNATIONAL INVESTMENT SURVEY ACT

SEC. 23. (a) Section 9 of the International Investment Survey Act of 1976 (22 U.S.C. 3108) is amended to read as follows:

"AUTHORIZATIONS

"SEC. 9. To carry out this Act, there are authorized to be appropriated $4,400,000 for the fiscal year ending September 30, 1980, and $4,500,000 for the fiscal year ending September 30, 1981.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979.

MISCELLANEOUS

SEC. 24. Section 402 of the Agricultural Trade Development and Assistance Act of 1954 is amended by inserting "or beer" in the second sentence immediately after "wine".

And the House agree to the same.

That the House recede from its amendment to the title of the bill.

CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
JONATHAN B. BINGHAM,
DON BONKER,
DONALD J. PEASE,
MICHAEL D. BARNES,
HOWARD WOLPE,
FLOYD FITHIAN,
WM. BROOMFIELD,
PAUL FINDLEY,
Managers on the Part of the House.

WILLIAM PROXMIRE,
ADLAI STEVENSON,
HARRISON A. WILLIAMS,
PAUL TSONGAS,
JOHN HEINZ,
NANCY L. KASSEBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 737) to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

FINDINGS

The Senate bill stated that the ability of U.S. citizens to engage in international commerce is a fundamental concern of U.S. policy.

The House amendment stated that a large trade deficit weakens the value of the dollar, intensifies inflation, and heightens world economic instability; that poor export performance contributes to the trade deficit; that it is in the national interest to place a high priority on exports; and that minimization of restrictions on agricultural exports is of critical importance.

The committee of conference agreed to combine the Senate and House provisions.

POLICY

The Senate bill stated that it is U.S. policy to minimize uncertainties in export control policy, and to restrict exports only after full consideration of domestic economic impact.

The House amendment stated that it is U.S. policy to restrict exports to countries violating the principles of the Monroe Doctrine; that exports not be controlled unless they are essential, effective, administered in accordance with due process, and justified in annual reports; and that restrictions on agricultural exports should be minimized.

The committee of conference agreed to combine the Senate and House policy statements, with the exception of the House reference to the Monroe Doctrine.

In deleting specific reference in the House amendment to the Monroe Doctrine, the conferees noted that the precise terms of that doctrine are unclear, and that section 3(b) of the act, making it U.S. policy to restrict exports "to further significantly the foreign policy of the United States * * *" encompasses the full range of U.S. foreign policy goals. It seemed inappropriate, therefore, to single out this historical element of U.S. foreign policy for particular emphasis. The conferees, however, do not wish to preclude use of the authorities of this act as a response to foreign military activities in the Western Hemisphere in contravention to U.S. foreign policy interests if the President determines that such a response is appropriate and consistent with the provisions of this act.

AUTHORITY

The Senate bill retained the basic authority of the act for the President to regulate any export to carry out policies of the act.

The House amendment retained the basic authority of the act, but separate of the authority to impose national security, foreign policy, and short supply controls into three different sections.

The committee of conference agreed to the House provision.

ALLOCATION OF LICENSES UNDER SHORT-SUPPLY CONTROLS

The House amendment provided that factors on the basis of which licenses are allocated shall include the extent to which a country engages in equitable trade practices toward the United States and treats the United States equitably in times of short supply.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision.

POLICY TOWARD INDIVIDUAL COUNTRIES

(a) The Senate bill provided that export control policy toward individual countries shall be reviewed every 3 years in the case of multilateral controls and annually with respect to unilateral controls.

The House amendment provided that policy toward individual countries shall be reviewed periodically.

The committee of conference agreed to the Senate provision.

(b) The House amendment required denial of export licenses to any party responsible for diversion.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment specifying that the provision only covers diversions that are in violation of the terms of an export license and that additional steps may be directed to the party responsible for the diversion.

The committee of conference expects that the executive branch will institute procedures that assure that export licenses for controlled goods or technology will clearly specify that such goods and technology will be used only for uses which would not make a significant contribution to military potential. If the exported goods or technology is diverted to a significant military use in violation of license conditions, the President will be required to take appropriate actions.

This provision is not intended to limit in any way the President's discretion under the act to take appropriate action to terminate diversion of exported items to military use even if such diversion does not technically constitute a violation of license conditions. Obviously the President's freedom of action to protect U.S. national security is not constrained in situations in which, through oversight or negligence, the Government fails to specify conditions of end-use of exported or licensed goods or technology.

LICENSE DENIALS

The House amendment, in cases of license denials, required the Secretary to notify the applicant of modifications which would permit approval of the application, or indicate officials with whom the applicant could consult about modifications.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision.

CRITICAL TECHNOLOGY

The Senate bill required that priority be given to preventing transfer of critical goods and technology, that the Secretary of Defense shall bear primary responsibility for identifying critical goods and technology, and that the Secretary of Commerce, in consultation with the Secretary of Defense, shall review and revise controls for the purpose of insuring that they cover and, to the maximum extent are limited to, critical goods and technology.

The House amendment found that controls should be focused primarily on, and implemented for, critical goods and technology, and required the Secretary of Defense to develop a list of critical technologies, which shall be completed and published by October 1, 1980, and become part of the Commodity Control List.

The committee of conference agreed to the House provision, with an amendment adding the Senate language regarding review of the control list and approval of the list by other agencies.

TERMINATION OF FOREIGN POLICY CONTROLS

The Senate bill provided that the President must extend foreign policy controls annually or they will expire.

The House amendment did not contain a comparable provision.

The committee of conference agreed to the Senate provision.

CRITERIA FOR FOREIGN POLICY CONTROLS

The Senate bill stated criteria that the President shall consider before imposing, increasing, or extending foreign policy controls.

The House amendment provided similar criteria.

The committee of conference agreed to combine the Senate and House provisions.

ALTERNATIVE MEANS

The Senate bill required the President to consider alternative means to further the purposes of foreign policy controls.

The House amendment required the President to determine, before imposing foreign policy controls, that reasonable efforts have been made to achieve their purposes through alternative means.

The committee of conference agreed to the House provision.

CONSULTATION WITH INDUSTRY

The Senate bill required regular consultation with industry on export policy and foreign availability.

The House amendment required the Secretary of Commerce to consult with affected U.S. industries before imposing foreign policy controls.

The committee of conference agreed to combine both the Senate and House provisions.

CONSULTATION ON FOREIGN POLICY CONTROLS

(a) The Senate bill required the President to inform Congress when imposing, increasing, or extending foreign policy controls, and to justify such actions to the public to the extent possible.

The House amendment did not contain a comparable provision.

The committee of conference agreed to the Senate provision.

(b) The House amendment required the President to notify Congress whenever he imposes a foreign policy export control, and to report to Congress on the reasons for the control and on his compliance with the requirements of the act in imposing the control, and provided that the control shall cease to be effective upon adoption of a concurrent resolution of disapproval within 60 days.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment removing the provision for a congressional veto by concurrent resolution.

In agreeing to eliminate the House provision for congressional veto by concurrent resolution of new forms of export controls for foreign policy purposes, the conferees emphasized their expectation that the executive branch would consult fully with Congress prior to employing any such controls, and agreed to give further consideration to a congressional veto mechanism in subsequent legislation in the event prior consultation on foreign policy controls proved inadequate under the provisions of this act.

EXCLUSION FOR FOOD AND MEDICINE

The House amendment provided that foreign policy control authority does not authorize controls on food and medicine, and stated the intent of Congress that foreign policy controls should not be applied to exports which would meet basic human needs.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment to make the exclusion apply only to medicine and medical supplies.

TRADE EMBARGOES

The House amendment provided that foreign policy control authority does not authorize total trade embargoes.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the Senate position.

However, the conferees agreed that, although certain authorities provided in this act are used to help implement total U.S. economic embargoes against several countries, authority for such embargoes is contained exclusively in section 5(b) of the Trading With the Enemy Act and in section 5(b) of the International Emergency Economic Powers Act. The conferees confirmed the fact that this act is not intended to constitute authority to impose total economic embargoes, but felt this was sufficiently clear that it was unnecessary to so provide in the act itself.

INTERNATIONAL OBLIGATIONS

The House amendment provided that certain limitations on foreign policy control authority shall not apply to the imposition of controls pursuant to certain international obligations.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment confining the coverage of the provision to treaties and international agreements.

FOREIGN POLICY CONTROL LIST

The House amendment required that items subject to foreign policy control be identified as such on the list. The Secretary of State, with the concurrence of the Secretary of Commerce, is responsible for identifying items to be controlled for foreign policy purposes.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment changing the language on periodic revision of the control list.

In adopting the House language requiring identification of control list items subject to controls for foreign policy purposes, the conferees emphasized that all controlled items could continue to be included in a single list. The purpose of this provision is to assure that exporters may distinguish goods and technology controlled only for foreign policy purposes from those subject to control for national security purposes only, or for both national security and foreign policy purposes.

FOREIGN AVAILABILITY

The Senate bill provided that the President shall not impose national security or foreign policy controls on items where there is foreign availability in significant quantity and in quality comparable to availability from the United States, unless he determines that the absence of controls would be detrimental to national security or foreign policy.

The House amendment, with respect to national security controls, required the Secretary of Commerce to review foreign availability on a continuing basis, and to remove validated license controls on, and approve license applications for, items which the Secretary determines to be available in fact from foreign sources to such an extent that controls would be ineffective, unless the President determines that the absence of controls would be detrimental to national security, in which case the President must publish that determination, its basis, and its estimated economic impact. With respect to foreign policy controls, the House amendment required the President to attempt to negotiate for the cooperation of foreign governments in controlling exports which the United States controls for foreign policy reasons.

The committee of conference agreed to accept the Senate general policy provision regarding foreign availability and the detailed House provisions with regard to national security controls and to foreign policy controls. The committee of conference agreed to delete the Senate provision requiring the President to ask for additional authority to secure cooperation in eliminating foreign availability should negotiations fail. In deleting this Sen-

ate provision, the committee of conference in no way wishes to imply that the President cannot invoke his existing authority to secure cooperation in the event that negotiations to eliminate foreign availability are unsuccessful. If the President believes that he requires additional authority to take effective action to that end, the committee of conference expects the President to advise the Congress and recommend appropriate legislation.

NATIONAL SECURITY CONTROL LIST

The Senate bill provided that the Secretary of Commerce shall prepare and maintain the control list; the Secretary of Defense has primary responsibility for identifying critical technologies.

The House amendment provided that the Secretary of Commerce shall establish and maintain the list. The Secretary of Defense has primary responsibility for identifying items for inclusion on the list. Those items on which the Secretaries of Commerce and Defense concur would comprise the list.

The committee of conference agreed to the House provision.

The conferees intend this provision, as well as the provision agreed to with respect to the creation of a list of critical technologies, to serve to clarify the respective roles of the Secretary of Commerce and the Secretary of Defense in the list maintenance and review processes, but not to change fundamentally the current sharing of responsibilities between these two officials and their respective Departments. The conferees intend that the existing array of responsibilities for the administration of export controls within the executive branch remain unchanged and impose no new constraints on export licensing. The Secretary of Commerce retains the responsibility for maintaining the export control list; and, the responsibility of the Secretary of Defense to identify critical goods and technologies for possible inclusion on that list is made clear. If the Secretary of Defense and the Secretary of Commerce fail to concur with respect to inclusion of items on the list, the matter is referred to the President for resolution.

LIST REVIEW

The Senate bill required that the control list be reviewed every 3 years for multilateral controls and annually for unilateral controls.

The House amendment provided for continuous review of the list.

The committee of conference agreed to the House provision with an amendment adopting the Senate language on the period for review of control list.

In adopting the Senate's provision that the control list be reviewed every 3 years in the case of multilateral controls and annually in the case of unilateral controls, the conferees expressed the hope and expectation that such a specific mandate for control list review would prove more compelling than the less definite House provision calling for "continuous" review. Annual review of unilateral controls would insure a more frequent review of those controls than is now provided.

NOTIFICATION TO PUBLIC

The Senate bill required the Secretary of Commerce to keep the public fully apprised of changes in export control policy and procedures.

The House amendment required the Secretary of Commerce to publish any revision of the control list in the Federal Register and to specify whether it applies to national security or foreign policy controls.

The committee of conference agreed to combine the Senate and House provisions.

TYPES OF EXPORT LICENSES

The Senate bill required establishment of a validated license, a qualified general license, a general license, and such other types of licenses as the Secretary of Commerce may deem appropriate.

The House amendment authorized the establishment of the same three types of licenses and such others as the Secretary considers necessary; the definitions of the licenses are somewhat different from those in the Senate bill.

The committee of conference agreed to the House provision, with technical changes simplifying the distinctions between the types of licenses.

USE OF EXPORT LICENSES

The Senate bill stated the intent of Congress that validated licenses be required insofar as possible only for items subject to multilateral controls. Use for other items must be reported to Congress annually. The Senate bill also stated the intent of Congress that qualified general license be used as much as possible for other items, and required establishment of procedures for qualified general license within 60 days of enactment.

The House amendment stated the intent of Congress to encourage use of qualified general license to the maximum extent practicable. The House amendment also provided that, insofar as possible, validated license shall be limited to items subject to multilateral controls which require the specific approval of the parties to the controls, to items monopolized by the United States or to items where the United States is seeking comparable controls by other countries, and that a qualified general license shall be used for items subject to multilateral controls but exportable at U.S. discretion.

The committee of conference agreed to the House provision, with an amendment adopting the Senate language on establishing procedures for approval of items that can be exported with a qualified general license, and allowing more time for establishing those procedures.

PROCEDURES FOR PROCESSING LICENSE APPLICATIONS

(a) The Senate bill required the Secretary of Commerce to consult with other agencies on licensing decisions; required a determination by the Secretary of Commerce within 10 days on whether an application must be submitted for multilateral review; provided 90 days for the Secretary of Commerce to approve or disapprove any application which does not require interagency review; and provided 90 days, following interagency review, for the Secretary of Commerce to resolve interagency disagreements and issue or deny a license.

The House amendment provided that authority to deny license applications may not be delegated below the level of Deputy Assistant Secretary; provided that any agency may determine the types of applications it wishes to review, and required the Secretary of Commerce to submit such applications to such agency; provided 30 days for the Secretary of Commerce to approve or disapprove any application which does not require interagency review; and provided three 30-day stages for consideration of license applications following interagency review: first, by Department of Commerce licensing officials; second, by the Secretary of Commerce; and third, by the President. If any agency appeals the licensing decision at any stage, the application goes to the next stage.

The committee of conference agreed to the Senate provision.

(b) The Senate bill required the President to notify Congress whenever he overrules a licensing recommendation made to him by the Secretary of Defense.

The House amendment did not contain a comparable provision.

The committee of conference agreed to the Senate provision.

(c) The House amendment provided a 60-day time limit for multilateral review of U.S. licensing cases and for U.S. review of other countries' licensing cases.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision with an amendment providing a national security waiver for the 60-day period and a notification procedure if the waiver is used.

(d) The Senate bill required records on information regarding the basis for and any dissent from an export license decision.

The House amendment did not contain a comparable provision.

The committee of conference agreed to the Senate provision with an amendment removing certain requirements for the recordkeeping.

(e) The Senate bill provided that applicants may petition the Secretary of Commerce requesting that licensing action be brought into conformity with requirements of the act.

The House amendment provided that, whenever an action on an application is not taken within the time limit specified, the applicant may petition the Secretary of Commerce for compliance with such time limits. If the Secretary does not take corrective action within 30 days or if such action has been taken but the Secretary does not so notify the applicant, the applicant may bring an action in U.S. District Court.

The committee of conference agreed to the House provision.

SHORT-SUPPLY MONITORING AUTHORITY

The Senate bill authorized short-supply monitoring, including data gathered under the new petitioning process.

The House amendment stated the same authorization, except the House amendment made no reference to data gathered pursuant to petitions for monitoring or controls.

The committee of conference agreed to the House provision.

EXPORTS OF CRUDE OIL

(a) The Senate bill permitted the export of oil after a period of 60 calendar days of congressional session unless both Houses of Congress adopt a concurrent resolution of disapproval.

The House amendment would permit the export of oil only if Congress passes a concurrent resolution approving such export within 60 days.

The committee of conference agreed to the House provision.

(b) The House amendment stated that there should be a General Accounting Office (GAO) audit of any Presidential finding that export would lower refinery costs and wholesale and retail prices.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the Senate position.

In deleting the provision of the House bill requiring audit by the GAO of certain Presidential findings, the conferees noted possible difficulties for the GAO to perform such an audit, and the unlikelihood that the President would, in fact, make findings of lower costs and prices resulting from a proposed export of Alaskan oil. The action of the conferees, however, is not intended to preclude or inhibit any Member or committee of Congress from requesting the GAO to perform such an audit if and when the President were to issue such findings.

(c) The Senate bill exempted any country with which the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act, and any country with which the United States entered into bilateral oil supply agreement prior to June 25, 1979, provided Congress is promptly notified of such agreements.

The House amendment exempted any country with which the United States entered into a bilateral oil supply agreement before May 1, 1979.

The committee of conference agreed to the Senate provision, with an amendment clarifying that Alaskan oil can be shared pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency. The exemption from export restrictions of any oil exported pursuant to a bilateral agreement is intended by the conferees to apply to the various interrelated arrangements and agreements between the United States and Israel entered into on March 26, 1979, in conjunction with the Treaty of Peace Between Israel and Egypt, and the subsequent agreement under which the United States will supply oil to Israel under circumstances specified in the agreement for 15 years (including the 5-year period covered by the United States-Israel oil arrangement of September 1, 1975).

The intent was expressed in House debate on this provision that it should not have the effect of prohibiting Alaskan crude in excess of 1.2 million barrels per day from being refined in the Netherland Antilles provided all end products of such refining are provided to the United States and the consumer benefit and all other requirements of this act are fulfilled.

EXPORTS OF REFINED OIL PRODUCTS

The House amendment prohibited the export of refined oil products, except after a period for congressional review and action and except for exports to a country of 250,000 barrels or less in a year and included a waiver of the provision if vital to the national interest.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment changing the period of delay to 30 days after notification of Congress, with authority for the President to waive the 30-day delay. The provision would apply not just to fully refined oil products, but also to partially refined oil products and to middle distillates.

HIDES

The House amendment stated that the Secretary of Agriculture shall collect data on export sales of animal hides and skins.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision.

CONGRESSIONAL APPROVAL OF AGRICULTURAL SHORT-SUPPLY CONTROLS

The Senate bill required a report to the Congress of any proposed use of authority to control export of agricultural commodities. Such proposed control would become effective only after 60 calendar days of continuous congressional session if neither House has passed a resolution of disapproval, or after one House had disapproved within 60 days and the other House disapproved such disapproval within an additional 30 days.

The House amendment retained existing law which requires notification to Congress of imposition of export controls on agricultural commodities for short supply or foreign policy purposes. Such controls cease if, within 30 days, Congress passes a concurrent resolution of disapproval.

The committee of conference agreed to the House provision.

DELEGATION OF AUTHORITY

The Senate bill authorized the President to delegate authorities conferred by the act, except to any official not confirmed by the Senate and except for any authority to overrule or modify a decision or recommendation of the Secretary of Commerce, State, or Defense.

The House amendment repealed a similar provision in existing law.

The committee of conference agreed to the Senate provision.

INDEXING

The Senate bill directed the Secretary of Commerce to adopt regulations to eliminate unnecessary delay in implementing decisions to remove or relax controls, and to consider removing site visitation requirements for goods removed from controls.

The House amendment authorized the Secretary of Commerce, where appropriate, to provide for annual increases in performance levels of licensed goods and technology and to remove from the list those goods and technologies which no longer meet such performance levels unless another government agency objects and the Secretary determines controls should be continued.

The committee of conference agreed to the House provision, with an amendment to include the Senate language on site visitation. The indexing provision is not intended to authorize the automatic decontrol of goods and technologies in accordance with prior projections of obsolescence. The committee of conference expects that, prior to effectuating any scheduled removal or relaxation of a control, a current appraisal will be made to assure that prior projections have actually materialized. The committee of conference also wishes to make it clear that the indexing provision is in no way to be interpreted to authorize decontrol of items which are obsolete by U.S. standards, but would nevertheless make a significant contribution to the military potential of the Soviet Union or other adversary nation.

EXPORT OF HORSES

The Senate bill retains the existing provision of law prohibiting export of horses by sea except by waiver of the Secretary of Commerce based upon determination that horses are not being exported for purposes of slaughter.

The House amendment repealed a similar provision of existing law.

The committee of conference agreed to the Senate provision.

CRIME CONTROL

The Senate bill authorized the President to add other countries to the existing list of countries exempted from the requirement of validated license for export of any crime control and detection instruments.

The House amendment retained existing law which exempts only NATO countries, Japan, Australia, and New Zealand.

The committee of conference agreed to the Senate provision.

BARTER

The House amendment authorized exemption from any short supply or national emergency controls of goods exported pursuant to a barter agreement provided the Secretary of Commerce makes certain findings regarding the effects of such a barter agreement.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment removing the exemption for barter agreements from national emergency controls.

RED CEDAR

The House amendment contained a provision prohibiting, after a 3-year phase-out period, the export of unprocessed western red cedar harvested on State or Federal lands. Exports during the 3-year phase-out period are to be allocated on the basis of prior history of exports and other appropriate factors.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision.

TERRORISM

The Senate bill prohibited the approval of a license for the export of a good or technology to any country, if the Secretary of State has made the following determinations:

(1) The country has demonstrated a pattern of support for actions of international terrorism; and

(2) the export would make a significant contribution to the military potential of the country or would enhance its ability to support international terrorism.

The Senate bill also permitted a Presidential waiver of the prohibition if he determines that it is in the national interest to permit the export.

The House amendment included a similar provision with the same determinations, but instead of a prohibition, required that the House Foreign Affairs and the Senate Foreign Relations Committees be notified before issuance of a license for the export of a good valued at more than $7 million.

The committee of conference agreed to the House provision with an amendment changing the notification to the Senate Foreign Relations Committee to a notification to the Senate Committee on Banking, Housing, and Urban Affairs.

CIVIL AIRCRAFT EQUIPMENT

The House amendment provided that any product which is standard equipment in civil aircraft and is an integral part of such aircraft, and which is to be exported to a country other than a controlled country, shall be subject to the Export Administration Act rather than to the Arms Export Control Act.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision.

It is the intent of the conferees that civil training aircraft below 600 horsepower now subject to control under the Arms Export Control Act, as well as larger aircraft with certain integral components now subject to control under the Arms Export Control Act, shall henceforth be transferred to and subject to control only under the Export Administration Act. The conferees noted, however, that this provision should not be implemented in such a manner as to ease restrictions on the sale of any aircraft to South Africa.

NONPROLIFERATION CONTROLS

The House amendment stated that nothing in new sections 5 and 6 of the Export Administration Act shall be construed to supersede the procedures pursuant to the Nuclear Non-Proliferation Act of 1978. New section 10 (licensing procedures) of the Export Administration Act shall apply, when consistent, to export licenses referred under the procedures established pursuant to section 309(c) of the Nuclear Non-Proliferation Act, to the Subgroup on Nuclear Export Coordination or any other interagency group. If a decision is not rendered under these procedures within 180 days, the applicant shall have the right of appeal and court action provided for in this bill.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision.

PETITIONS FOR MONITORING OR CONTROLS

The Senate bill (1) established a formal procedure by which petitions can be filed with the Secretary of Commerce for consideration of monitoring or export controls on any material or commodity for which an increase in domestic prices or a domestic shortage has or may have a significant adverse effect on the national economy or any sector thereof; (2) stated that if a petition has been considered and in the absence of signifi-

cantly changed circumstances, the Secretary may determine that a subsequent petition does not merit consideration; (3) stated that if necessary, the Secretary may impose temporary monitoring or controls during the consideration of a petition, and interested persons shall have an opportunity to comment on such actions; and (4) specifically stated that the procedure did not apply to any agricultural commodity.

The House amendment (1) contained a similar provision regarding the procedure by which petitions can be filed with the Secretary of Commerce, except that the House provision pertained only to metallic material capable of being recycled and with respect to which they may be a significant adverse effect on the national economy or any sector thereof because of serious inflationary impact due to increased prices or a domestic shortage resulting from exports; (2) included a similar provision regarding the consideration of subsequent petitions in the absence of significantly changed circumstances, except that it limited this authority to a period of 6 months following the consideration of a petition; and (3) contained a similar provision regarding the imposition of temporary monitoring or controls during the consideration of a petition, except it did not specifically provide for comment by interested persons.

The committee of conference agreed to the House provision with an amendment removing the reference to inflationary impact due to increased prices in the end product.

CONSULTATIONS AND STANDARDS

The Senate bill retained from existing law the provision that, in determining what shall be controlled or monitored, consultations shall be held with other governmental departments and agencies, and with private industry.

The House amendment deleted this provision from the act.

The committee of conference agreed to the House provision.

ENERGY CONTROLS

The Senate bill retained the provision of the act which required the Secretary of Commerce to consult the Secretary of Energy with respect to monitoring of exports related to energy, and added to the provision the same consultation requirement with respect to the imposition of export controls on energy related exports.

The House amendment retained the provision regarding monitoring without adding the reference to export controls.

The committee of conference agreed to the Senate provision.

PRIVATE CHANNELS

The Senate bill retained the provision of the existing act which provided that, in authorizing exports, full utilization of private competitive trade channels shall be encouraged.

The House amendment deleted this provision from the act.

The committee of conference agreed to the House provision.

TECHNICAL ADVISORY COMMITTEES (TAC'S)

(a) The Senate bill retained the provisions of the act authorizing technical advisory committees to advise the Secretary of Commerce.

The House amendment retained the same provision and added that the TAC's shall also advise the Secretary of Defense.

The committee of conference agreed to the House provision.

(b) The Senate bill retained the provision of the act which authorizes reimbursement of expenses incurred by members of the TAC's.

The House amendment deleted this provision from the act.

The committee of conference agreed to the Senate provision.

(c) The Senate bill retained the provision of the act which provides that each TAC shall elect a chairman and shall meet at least every 3 months, unless the chairman determines otherwise, and each TAC shall be terminated after 2 years unless the Secretary determines otherwise.

The House amendment deleted this provision from the act.

The committee of conference agreed to the Senate provision.

(d) The Senate bill stated that upon certification of foreign availability by a TAC, the Secretary shall investigate and report to the TAC on whether the Secretary concurs with the certification. If the Secretary concurs, the Secretary shall submit a recommendation to the President who shall act in accordance with section 4(a)(2)(E) of the Senate bill relating to foreign availability determinations.

The House amendment stated that upon such certification of foreign availability, the Secretary shall take steps to verify such availability, and upon such verification shall remove the requirement for a validated license, unless the President determines that the absence of controls would prove detrimental to the U.S. national security, upon which decision the President shall publish his determination along with a statement of its basis and its estimated economic impact.

The committee of conference agreed to the House provision, with a technical amendment.

(e) The Senate bill provided that the Secretary of Defense shall have the same authorities and responsibilities as the Secretary of Commerce with respect to the establishment and receiving of advice from TAC's.

The House amendment did not contain a comparable provision.

The committee of conference agreed to the House position.

VIOLATIONS

The House amendment stated that any person who is issued a validated license and who willfully fails to report a diversion shall be fined the sum of the profit from the sale or $100,000, whichever is greater, or imprisoned for up to 5 years.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment specifically tying the provision to violations of the conditions of an export license and changing the fine to five times the value of the export or $100,000, whichever is greater.

CONFIDENTIALITY

The Senate bill provided that the enactment of the new confidentiality provision shall not affect any judicial proceeding under section 552 of title 5, U.S. Code (Freedom of Information Act) to obtain access to boycott reports submitted prior to October 31, 1976 which was pending on May 15, 1979.

The House amendment provided in its savings provisions, that nothing in this act shall affect any investigation, suit, action, or other judicial proceeding commenced under the Export Administration Act or the Freedom of Information Act which is pending when this act takes effect.

The committee of conference agreed to the Senate provision with the understanding that nothing in this act restricts the publication of boycott reports, including voluntary periodic surveys made by U.S. corporations of their foreign subsidiaries.

SIMPLIFYING DOCUMENTATION

(a) The Senate bill moved from this section of the Act to the section detailing in the annual report the requirement for a report on action taken to reduce the cost of recordkeeping and export documentation.

The House amendment retained this reporting requirement in this section, which requires that the report be made in the first annual report made after the action is taken.

The committee of conference agreed to the Senate provision.

(b) The House amendment retained, with technical changes, the provision in the act requiring the Department of Commerce to seek ways to facilitate compliance with the act by simplifying the rules and regulations, or clarifying the export control lists.

The Senate bill repealed this provision.

The committee of conference agreed to the House provision.

ADMINISTRATIVE PROCEDURES

The Senate bill stated that it is the intent of Congress that there be a meaningful opportunity for public comment on all regulations imposing controls on exports before those controls take effect.

The House amendment did not contain a comparable provision.

The committee of conference agreed to the Senate provision.

ANNUAL REPORT

The Senate bill required an annual report on the implementation of the act. The annual report called for in the Senate bill required the following items not included in a similar House amendment: (1) efforts to keep the business sector informed about policies and procedures; (2) delegations of authority by the President under section 4(k) of the Senate bill; (3) the progress of negotiations with COCOM under section 4(n) of the Senate bill; and (4) revisions to simplify reporting requirements prescribed in section 11(d) of the Senate bill.

The House amendment required that an annual report on the administration of the act during the preceding fiscal year be submitted no later than December 31. The House annual report required the following item not included in the Senate bill: the effectiveness of export controls imposed under section 6 for foreign policy purposes.

The committee of conference agreed to combine the Senate and House provisions.

DEFINITIONS

The Senate bill included a definition of "goods" and of "technology".

The House amendment included a definition of the "Secretary".

The committee of conference agreed to both the Senate and the House provisions.

REGULATORY AUTHORITY

The House amendment contained a separate section stating that the President and the Secretary may issue rules and regulations, and that they may apply to the financing, transporting, or other servicing of exports.

The Senate bill did not contain a separate section for this authority.

The committee of conference agreed to the House provision.

AUTHORIZATION OF APPROPRIATIONS

(a) The Senate bill authorized $8 million for fiscal year 1980.

The House amendment authorized $7.070 million for fiscal year 1980 and $7.777 million for fiscal year 1981.

The committee of conference agreed to combine the two provisions into a 2-year authorization, with $8 million authorized for each fiscal year.

(b) The Senate bill stated that $1.250 million of that sum shall be available only for establishing and maintaining the capability to make foreign availability assessments.

The House amendment did not contain a comparable provision.

The committee of conference agreed to the

Mr. Ford of Michigan with Mr. Horton.
Mr. Minish with Mr. Pashayan.
Mr. Davis of South Carolina with Mr. Hollenbeck.
Mr. Cotter with Mr. Biaggi.
Mr. John L. Burton with Mr. Ashley.
Mr. Breaux with Mr. Barnard.
Mr. Huckaby with Mr. AuCoin.
Mr. Lundine with Mr. Marks.
Mr. Cavanaugh with Mrs. Collins of Illinois.

Mr. DASCHLE and Mr. MARKEY changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirden, one of his secretaries, who also informed the House that on September 28, 1979, the President approved and signed a bill of the House of the following title:

H.R. 111. An act to provide for the operation and maintenance of the Panama Canal under the Panama Canal Treaty of 1977, and for other purposes.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 192. Concurrent resolution directing the Clerk of the House to make a correction in the enrollment of the bill, H.R. 3996.

PERMISSION TO FILE CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 404, CONTINUING APPROPRIATIONS, 1980

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the joint resolution (H.J. Res. 404) maikng continuing appropriations for fiscal year 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR COMMITTEE ON VETERANS' AFFAIRS TO FILE REPORT ON H.R. 5288 NOT LATER THAN FRIDAY NEXT

Mr. HEFNER. Mr. Speaker, I ask unanimous consent that the Committee on Veterans' Affairs be permitted to file a report on H.R. 5288 while the House is in recess next week, not later than Friday next.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERSONAL EXPLANATION

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, on September 27, 1979, I was unable to be present on the floor of the House of Representatives for rollcall No. 518 on an amendment to H.R. 5359, the Department of Defense appropriations, that would have provided for the consolidation of military helicopter pilot training programs. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, on Tuesday, September 25, 1979, when the House considered House Joint Resolution 404, the fiscal year 1980 continuing resolution containing the proposed congressional and senior government officials pay raise, I voted "aye."

I was properly recorded by the electronic device and that vote reflected the technical parliamentary advice I received prior to my vote. It also reflected many of my basic feelings about the merits of the bill.

However, I should have voted "nay."

As the record of debate shows, I offered a motion to recommit House Joint Resolution 404 to the Committee on Appropriations.

The Speaker asked me if I qualified to offer the motion. As the ranking member of the Appropriations Committee I assumed I was qualified and so stated.

Upon further reflection and counseling with my friends and colleagues, I came to realize that the honorable, if not the technical, duty of a Member offering a motion to recommit is to vote against the bill on final passage.

Thus, I wish to take this occasion to apologize to the House for my error in not adhering to the strong expectation that an author of an unsuccesful motion to recommit will in turn vote "nay" on final passage.

PRESS GALLERY ATTENDANCE

(Mr. WHITLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITLEY. Mr. Speaker, I noticed, and I think most of my colleagues did as well, a few days ago when we voted on the congressional pay raise, that there were a large number of people in the Press Galley. As a matter of fact, I counted 33 people at the close of the rollcall. The congressional pay raise, as I recall, involved approximately $1.3 million per year.

Today, Mr. Speaker, we just finished voting on the defense appropriations bill which involves $123 billion. At the close of the rollcall I looked up at the Press Gallery. There we two people there. They were paying no attention to the rollcall but were simply talking to each other. That may be a commentary on what the press thinks is important in this country.

CONFERENCE REPORT ON S. 737, EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, pursuant to the unanimous-consent agreement of Tuesday, September 25, 1979, I call up the conference report on the Senate bill (S. 737) to provide authority to regulate exports, to improve the efficiencies of export regulation, and to minimize interference with the ability to engage in commerce.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to the order of the House of September 25, 1979, the conference report is considered read.

(For conference report and statement, see proceedings of the House of September 27, 1979.)

The SPEAKER. The gentleman from New York (Mr. BINGHAM) will be recognized for 30 minutes, and the gentleman from California (Mr. LAGOMARSINO) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. BINGHAM).

(Mr. BINGHAM asked and was given permission to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, first I would like to say the conference report is available to the Members in yesterday's RECORD starting at page H8666. That is for the particular edification of the gentleman from Maryland (Mr. BAUMAN) if he decides to study it, and copies are also available in mimeograph form.

Mr. Speaker, I believe that your conferees have brought back a good bill, an improvement over the existing legislation. This is a balanced bill. It does a lot for the export industry in terms of establishing procedures with deadlines and requiring the administration to specify what it is doing. It gives clear guidelines to industry so they will know where they stand.

□ 1350

In many ways, I think it will facilitate an expansion of our exports, which is one of the major purposes of this bill.

At the same time, this bill strengthens in a number of respects the provisions with regard to controls on exports for national security purposes.

It requires the Defense Department to proceed with the drawing up of a list of military critical technologies. It retains the so-called Jackson amendment in full, which gives the Defense Department a veto over all licenses. It increases and clarifies penalties for diversion and other violations.

I think on the whole it is an improvement over the bill that was reported out of our committee.

We have a successful conference to report to you. A quick count indicates that of the roughly 70 points at issue

up by pollution abatement expenditures. I ask to have the table printed in the RECORD.

The table follows:

	Planned 1979 new plant and equipment expenditures for pollution abatement		
	Millions of dollars	Percent increase from 1978	Percent of total new plant and equipment expenditures
Electric utilities	2,674	8.2	9.8
Petroleum	1,406	8.7	8.0
Chemicals	580	2.7	7.2
Steel	536	21.5	18.4
Paper	296	23.8	7.2
Motor vehicles	202	2.0	4.0

Source: Department of Commerce, Bureau of Economic Analysis.

Mr. JEPSEN. Mr. President, these pollution abatement expenditures, combined with the serious underdepreciation of American industry caused by high inflation and outmoded tax laws, combine to give us the lowest rate of net productive investment of any major industrialized country. To get productivity back up again we are going to have to reform the environmental laws and the tax laws to encourage productive investment. One big step in the right direction, in my view, would be quick approval of the Capital Cost Recovery Act, of which I am proud to be a cosponsor. Much more needs to be done, but this would be a critical first step.●

OUR NO. 1 PROBLEM

● Mr. MORGAN. Mr. President, during August, a reporter from Time was scheduled to join me in North Carolina, where I was spending the month of August while the Congress was in recess.

He wanted to find out what the people in our State are talking about and what is bothering them.

I could have told him what the principal worry is among North Carolinians, because it is the same problem that troubles people all over the country.

The problem is inflation and the diminishing amount of goods and services our pay checks will buy.

A recent Government survey reported that unless inflation is brought under control, gasoline may be $5 a gallon within 10 years. The cost of buying a home in the 1980's will be beyond the reach of most American families.

Now there are many theories that have been advanced on fighting inflation, but one thing that practically everyone agrees upon is there must be more productivity. (Productivity is measured by the amount of goods a worker can produce in an hour or in a day).

Our productivity rate in this country has fallen steadily the past few years while that of other industrial nations has been rising. To produce more goods, a worker needs the equipment to raise his hourly rate. That means that he must have modern machinery to work with.

To get this machinery, industrial companies will have to invest in new equipment that can produce more efficiently and at less cost. This means that more money will have to be invested to purchase this machinery.

There are ways the Federal Government can help these companies do this. The Government can pass laws that will let industry depricate its old machinery more rapidly, which would be, in effect, a tax break.

No doubt Congress will consider this but at the same time it should also work to balance the Federal budget, because if the budget were balanced and the Government did not have to borrow money to meet its spending outlays, there would be more dollars available to industry for capital improvements.

There are no easy answers to the inflation dilemma, but certainly producing goods that could be made more cheaply and sold more cheaply is a key ingredient.

If we can accomplish this and find a substitute for the expensive oil we are importing, we will have gone a long way in reducing this No. 1 problem of inflation.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 248) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas the current rate of inflation presents a critical threat to the economic well-being and national security of the United States of America;

Whereas inflation is directly related to poor productivity growth;

Whereas productivity has grown less in the United States, since World War I, than in any other major industrialized nation;

Whereas the results of this poor productivity performance have been inflation, a declining standard of living in the United States, a falling dollar internationally and the loss of jobs to foreign workers; and,

Whereas growth in productivity would bring about a significant slowdown in the rate of inflation; Now, therefore, be it

Resolved, that it is the sense of the Senate that the President of the United States by proclamation designate the week of October 1 through October 7, 1979, to be "National Productivity Improvement Week", for the purpose of providing for a better understanding of the debilitating effects of stagnating productivity on the economic well-being of the United States, for an increased public awareness of the potential for significantly reduced inflation offered by productivity growth, and for encouraging the development of methods to improve individual and collective productivity in the public and private sectors.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 29, 1979, he presented to the President of the United States the following enrolled bills:

S. 233. An act to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes;

S. 237. An act to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of United States magistrates, and for other purposes;

S. 737. An act to provide to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce; and

S. 756. An act to amend the Office of Federal Procurement Policy Act, and for other purposes.

EXTENSION OF TIME FOR COMMITTEE TO FILE A REPORT ON A NOMINATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be permitted a 10-day extension, until October 8, 1979, on reporting the nomination of Ms. Frankie Freeman to be Inspector General of the Community Services Administration, and that this extension be retroactive to yesterday.

I also request that the name of Ms. Frankie Freeman be removed from the Executive Calendar until such time as it is reported from the Committee on Governmental Affairs.

Mr. STEVENS. I have no objection.

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

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, October 3, 1979, to mark up pending energy legislation and to consider farm credit nominations.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. EXON (for himself, Mr. MORGAN, Mr. HARRY F. BYRD, JR., Mr. GOLDWATER, and Mr. JEPSEN):

S. 1845. A bill to provide that no salary increases shall be given Members of Congress or the Federal Judiciary until the Federal budget is balanced; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EXON (for himself, Mr. MORGAN, Mr. HARRY F. BYRD, JR., Mr. GOLDWATER, and Mr. JEPSEN):

S. 1845. A bill to provide that no salary increases shall be given Members of Congress or the Federal Judiciary until the Federal budget is balanced; to the Committee on Governmental Affairs.

(The remarks of Mr. EXON when he introduced the bill appear elsewhere in today's proceedings.)

ORDER FOR H.R. 5419 TO BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 5419 be held at the desk when it arrives from the House, pending further disposition.

Mr. STEVENS. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.