expressly provides for the continuance of such regulation.

(2) If the Congress fails to provide for the continuance of any regulation during the applicable period specified under paragraph (1), the Secretary of Energy may not reinstate the regulation by promulgating any identical or substantially similar regulation which has the same effect as the regulation terminated as a result of the operation of paragraph (1).

—Page 40, after line 23, insert the following new section:

PROMULGATION OF REGULATIONS

SEC. 202. (a) (1) No regulation promulgated under the funding authority of this bill by the Secretary of Energy on or after the date of the enactment of this Act shall be effective after the expiration of the two-year period beginning on the effective date of such regulation unless the Congress expressly provides for the continuance of such regulation.

(2) If the Congress fails to provide for the continuance of any regulation during the applicable period specified under paragraph (1), the Secretary of Energy may not reinstate the regulation by promulgating any identical or substantially similar regulation which has the same effect as the regulation terminated as a result of the operation of paragraph (1).

H.J. RES. 74

By Mrs. HOLT:

—Strike all after the resolving clause and insert in lieu thereof the following:

That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

Article —

SECTION 1. No student shall be compelled, on account of race, color or national origin, to attend a public school other than the public school nearest to the residence of such student which is located within the school district in which such student resides and which provides the course of study pursued by such student.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

SENATE—*Monday, July 23, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. DAVID H. PRYOR, a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord our God, in the face of life's mysteries give us faith to believe that all things work together for good to them that love Thee. May we love Thee with our whole heart and mind and soul and strength that through us Thy purpose for the world may go forward. May this be a good day and the beginning of a good week, bright with the promise of constructive achievement and bright with some fulfillment of national purpose. When we cannot see the distant scene, help us to take one step at a time and trust Thee for the rest.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 23, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID H. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

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

THE SENATE PRODUCES

Mr. ROBERT C. BYRD. Mr. President, last week was a very productive week for the Senate, and I want to thank my colleagues for their cooperation and hard work in completing some very important measures which came up for consideration.

The Senate passed and sent to conference three appropriations bills: Agriculture, energy and water development, and Labor-HEW. I commend the distinguished chairman of the Appropriations Committee, Mr. MAGNUSON, and its ranking minority member, Mr. YOUNG, as well as the members of the committee and the chairmen and ranking Republican members of the subcommittees of the Appropriations Committee for the attention they have given to completing action on these bills in a timely manner.

The Senate also agreed to the conference report to H.R. 4289, supplemental appropriations for fiscal year 1979. That conference report will provide new budget authority for important Federal programs, including the food stamp program, child nutrition programs, the black lung disability trust fund, the Railroad Retirement Board, and others.

In addition to these appropriations bills, the Senate also passed S. 562, authorizing funds for fiscal year 1980 for the Nuclear Regulatory Commission. The funds authorized in this measure will assist the NRC in fulfilling its responsibilities in the important areas of nuclear energy safety, inspection of reactors, enforcement of its regulations, and action on State emergency plans. The distinguished Senator from Colorado (Mr. HART), chairman of the Nuclear Regulation Subcommittee of the Environment and Public Works Committee, and the distinguished Senator from Wyoming (Mr. SIMPSON), the ranking minority member of the subcommittee, did an excellent job of managing the bill, and their expertise in the field of nuclear energy policy was clearly demonstrated.

My distinguished senior colleague from West Virginia, JENNINGS RANDOLPH, chairman of the Committee on Environment and Public Works, played an integral part in reporting a measure which reflects our commitment to nuclear energy safety.

The Senate last week also disposed of H.R. 3661, Navajo-Hopi Relocation Commission; House Concurrent Resolution 10, Americans Missing in Southeast Asia; S. 221, Congressional Award program; Senate Resolution 196, National Jogging Day; Senate Resolution 188, Tax Exempt Mortgage Bonds; and S. 390, Antitrust Procedural Improvements, and other measures. I want to extend my sincere appreciation to every Senator for the work and cooperation each Senator has given to the expeditious consideration and disposal of these measures.

The Senate conducted its first Saturday session of this Congress last week, during which time the Senate completed action on S. 737, the Export Control Act. I know it is hard for Senators to come in on Saturday to conduct the Senate's floor business. After a long, arduous week, Senators would like to have time to spend with their families. Saturday workdays do not leave us very much time for that. But cognizant of our responsibility and the numerous measures on the Calendar, the Senate came in on Saturday to pick up where the Senate left off Friday evening at 8:48 p.m.

So, Mr. President, let me again thank my colleagues on both sides of the aisle for their cooperation and hard work. Especially I want to express my gratitude to the minority leader and the acting minority leader (Mr. STEVENS), and also to the majority whip and the Secretary of the Democratic conference, the committee chairmen, and the ranking minority members of the committees, all of whom had a major part in the accomplishments of this past week. It is my hope that we will continue to proceed in this manner so that we may dispose of measures on the Calendar in a timely fashion.

I reserve the remainder of my time.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. BAKER. I thank the Chair.

Mr. President, I thank the distinguished majority leader for his remarks recounting the progress of the Senate to date, and especially his laudatory remarks about the participation of the minority.

I think it has been a high point of this session that the majority leader has agreed to meet periodically with me and others to try to arrange the schedule of the Senate. We have had good success at those meetings so far, and I think it has been mutually beneficial. I know it has been helpful on this side of the aisle, in that it gives our Members a chance to gain some insight into the progress of the work, and give some suggestions and hopefully insight, as it were, into the matters to come before the Senate.

Since that is the special province of the majority and the majority leader handles it with such cooperation and grace, I want to take this opportunity to thank him for that cooperation, and say that I look forward to our continuing that practice for the remainder of the time before our August recess, and then even the balance of this legislative year.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished minority leader yield?

Mr. BAKER. I will be happy to yield, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, this has been my practice from the beginning. I think it is a matter that requires cooperation between the leaders on both sides of the aisle. I have found it productive, and intend to continue the practice.

Mr. BAKER. I thank the majority leader. We intend to try to continue to cooperate. I hope that soon we may have another meeting, so that we may explore further areas of cooperation.

Mr. ROBERT C. BYRD. As the distinguished minority leader knows, we discussed that this morning, and we agreed to meet today.

Mr. BAKER. I know. I wanted to let our friends know we were doing that.

Mr. ROBERT C. BYRD. I am not sure our friends care too much. They probably have their hands full.

Mr. BAKER. Perhaps they will care more after the time is over.

Mr. ROBERT C. BYRD. Perhaps.

Mr. BAKER. I thank the Senator.

Mr. President, I have no further need for my time, and no requests for time.

VITIATION OF ORDER FOR THE RECOGNITION OF SENATOR EXON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for recognition of Mr. EXON be vitiated.

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

Mr. ROBERT C. BYRD. Is morning business ordered?

The ACTING PRESIDENT pro tempore. Morning business has not been provided for.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period of up to 15 minutes for the transaction of routine morning business, and that Senators may speak therein up to 5 minutes each.

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

QUORUM CALL

Mr. ROBERT C. BYRD. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

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

HENRY HALL WILSON

Mr. HELMS. Mr. President, both Senator MORGAN and I lost a dear friend over the weekend—Henry Hall Wilson of Monroe, N.C., who died in a Charlotte hospital yesterday.

I grew up with Henry in Monroe. Indeed, he was one of my closest boyhood friends. My earliest recollection of him is that, even as a child, he possessed remarkable characteristics of intelligence, integrity, and honesty. He was a fine musician in high school and college. If memory serves me correctly, I believe he won the national championship as an oboe player. He led our church choir.

Then he went off to Duke University, where he was a top-flight student. After graduation, he began his career as an attorney, and became active in politics.

I shall not attempt to review his career in politics and government, Mr. President, but suffice it to say that he later served as administrative assistant to President Kennedy and President Lyndon B. Johnson. From Washington, he went to Chicago as president of the Chicago Board of Trade.

He was a fine American, Mr. President. He was a fine citizen. And he was a treasured friend. Mrs. Helms and I extend our deepest sympathy to his dear family.

I ask unanimous consent that an article from today's Greensboro, N.C., Daily News be printed at this point in the RECORD.

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

FORMER AIDE TO KENNEDY, JOHNSON DIES

Henry Hall Wilson, Jr., former state legislator, U.S. Senate candidate and administrative assistant to President Kennedy and Johnson, died Sunday in Charlotte. He was 57.

Wilson had been in declining health for nearly a year, according to his family. He died in Charlotte's Presbyterian Hospital, where he had been a patient since July 3.

A native of Monroe, Wilson left North Carolina in 1960 to work as an administrative assistant for President John F. Kennedy, serving as a liaison between the executive branch and the House of Representatives. Wilson continued in the same position for President Lyndon B. Johnson, eventually becoming the senior White House staff member.

In 1967, Wilson left Washington to become president and chief executive officer for the Chicago Board of Trade, one of the country's major stock and commodity exchanges. In 1968, Johnson appointed him head of a commission to travel to Eastern Europe to promote international trade.

Wilson announced his candidacy in 1973 for the U.S. Senate seat now held by Robert Morgan but his 13-year absence from the state and his association with the Chicago Board of Trade plagued his campaign with charges of involvement with out-of-state interests. He placed third behind Morgan and Nick Galifianakis.

After the Senate campaign, Wilson served as a business consultant and was working on a book about relationships between presidents and congresses when he died.

U.S. Senator Jesse Helms, D-N.C., who was Wilson's high school classmate in Monroe, described him as one of his closest boyhood friends. "He had a great mind and had to be one of the most intelligent fellows I knew when we were growing up," Helms said. "It wasn't surprising that he went on to have a brilliant career."

Wilson was also a high school classmate to James Wilson "Bud" Nance, who went on to become rear admiral in the Navy and skipper of the aircraft carrier USS Forrestal. Retired from the Navy, Nance is a member of the staff of the Senate Foreign Relations Committee.

Other classmates included Bruce Snider Jr., a saxophonist in Tommy Dorsey's band. Former gubernatorial candidate Skipper Bowles graduated in Monroe one year ahead of Wilson.

"All of us were very close back in those days," Helms said.

Wilson is survived by his wife, Mary; daughters, Jean Wilson Mulvihill of Durham and Nancy Wilson of Cambridge, Mass.; a son, Henry Hall Wilson III of Charlotte; a brother and a sister.

Graveside services will be held at 11:30 a.m. in Monroe with memorial services following at 4 p.m. in Monroe's First Baptist Church.

Mr. MORGAN. Mr. President, I learned today of the death of a very distinguished citizen of my State, Henry Hall Wilson. He served ably and well in the administrations of John F. Kennedy and Lyndon Johnson.

During the last several days, Mr. President, the matter of leadership has been paramount in the minds of most of us. We have watched a President search his soul and make bold moves in order to seize the reins of leadership and provide new direction for our country. We have seen the Congress concerned about its relationship with the President and heard Members of the Senate and House call for a closer partnership between the legislative and executive branches.

In short, it has been an exciting time in Washington and I am sure that no one would have followed the events of the last couple of weeks with greater interest and could have analyzed them with greater insight than my fellow North Carolinian Henry Hall Wilson, Jr., of Monroe, who served with great distinction and effectiveness as Director of Liaison with the House of Representatives for President John F. Kennedy. Unfortunately, Henry Hall has been extremely ill in past weeks and just this morning, I received word that he died last night in a Charlotte hospital.

There are many here in the Senate

who remember the kind of leadership Henry Hall Wilson helped provide here in Washington and have long considered him their friend and adviser. He knew Washington, he knew the Congress, he knew the White House. And he knew how to bring people together to accomplish things here in the Nation's Capital. During the Kennedy years, he was a mainstay of the White House staff and a familiar and welcome figure in the Halls of the Congress. Doors were open to him and he opened doors for the President. He took the dreams of Camelot and, working with the Congress, helped make them reality.

Henry Hall stayed on with President Lyndon Johnson and served as an administrative assistant to him until 1967 when he left to head the Chicago Board of Trade. For 8 years he resided in Chicago, as deeply involved in the commercial life of our Nation as he had been its political life previously. But he wanted to come home to North Carolina, and in 1974, he returned to Monroe and, not surprisingly, politics.

He chose to run for the Democratic nomination for the U.S. Senate and he made that race at great personal and financial sacrifice. He and I, along with a number of other persons, competed for the seat I now hold and Henry Hall and I campaigned on the same platforms across North Carolina. He was a learned man, a student of government, and ever a gentleman. His campaign was conducted on the highest level and I enjoyed my close association with him. His campaign received invaluable aid from his wife Mary, and my wife and daughters, who traveled and campaigned with me, came to love Mary Wilson as well as Henry Hall.

North Carolinians have always been proud of Henry Hall Wilson. And they should have been. He served them in the State legislature for some 6 years and was a progressive and forceful legislator. Former Gov. Terry Sanford was a close political associate of his and relied heavily on his advice and assistance. Henry Hall Wilson carried the banner for Terry Sanford and helped elect him Governor of my State. And he carried the banner for John F. Kennedy in my State and helped elect him President of the United States. Neither forgot what Henry Hall had done for them and, as I mentioned, John Kennedy brought him to Washington as a member of the White House staff to head relations with the House of Representatives.

I am saddened today by the death of Henry Hall Wilson, Jr., my friend, and I thank the Chair for allowing me these few moments to reflect upon his distinguished career and his service to the U.S. Congress and to two Presidents, John F. Kennedy and Lyndon Baines Johnson. I extend my deepest sympathy to his wife, Mary, his daughters Jean and Nancy, his son Henry Hall Wilson, III, and the other members of the family. I hope they will be comforted by the fact that there are many persons throughout the State and Nation who share their loss and are thinking of them at this time.

I ask unanimous consent that an obituary from today's Washington Post be printed in the RECORD.

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

HENRY H. WILSON, EX-LEGISLATIVE AIDE WITH KENNEDY AND JOHNSON

Henry Hall Wilson Jr., 57, a former legislative aide to presidents John F. Kennedy and Lyndon B. Johnson, died of a gastrointestinal ailment Sunday in a Charlotte, N.C., hospital.

He came to Washington in 1961 to serve under Lawrence F. O'Brien, who then was special assistant to the president for congressional relations. Mr. Wilson's responsibility was liaison work with the House of Representatives, especially the Southern delegations.

Mr. Wilson was an administrative assistant to President Johnson in 1967 when he left the government service to become president of the Chicago Board of Trade. He left the Board of Trade eight years later to run unsuccessfully for the Senate from North Carolina.

He was a native of Monroe, N.C., and a graduate of Duke University and its law school. He served in the North Carolina state legislature for six years before coming to Washington.

Survivors include his wife, Mary, of the home in Monroe; two daughters, Jean Mulvihill, of Durham, N.C., and Nancy E. Wilson, of Cambridge, Mass., a son, Henry Hall Wilson III, of Charlotte; a brother, John, of Toledo and a sister, Anne Yard, of Upper Montclair, N.J.

Mr. KENNEDY. Mr. President, I want to say this comes as sad and tragic news. I had the personal good fortune of knowing Henry Wilson. It is ironic that we would be considering trade legislation today, since he was one of the real leaders in the early day of trying to work out trade negotiations and a variety of other issues.

Henry H. Wilson Jr. served on the White House congressional relations staff during the administration of President Kennedy.

A native of Monroe, N.C., Henry Wilson was a graduate of Duke University and its law school. He had served in the North Carolina legislature for 6 years before coming to Washington in 1961 to work with Lawrence F. O'Brien, who was then special assistant to President Kennedy for congressional relations. Mr. Wilson's primary responsibilities included liaison work with the House of Representatives, but he was also well known to Members of the Senate.

I recall the high regard in which President Kennedy held Henry Wilson, and the extraordinarily valuable service he ably provided.

I would also like to take this opportunity to extend my sincere condolences to his wife and children. Henry Wilson was an outstanding public servant who made many worthwhile contributions to the Nation, and all of us who knew him mourn his passing.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. 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.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for morning business has expired. Morning business is closed.

INCREASED AUTHORIZATION FOR 1979 FOOD STAMP PROGRAM

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1309, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1309) to consider the fiscal year 1979 authorizations for appropriations for the food stamp program.

The Senate resumed consideration of the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and insert the following:

INCREASE IN 1979 AUTHORIZATION FOR APPROPRIATIONS; REPEAL OF AUTHORITY FOR CARRY-OVER OF APPROPRIATIONS; METHOD OF REDUCING ALLOTMENTS IF APPROPRIATIONS ARE INSUFFICIENT

SECTION 1. Section 18 of the Food Stamp Act of 1977 is amended by—

(1) striking out "$6,158,900,000" in the first sentence of subsection (a) and inserting in lieu thereof "$6,778,900,000";

(2) striking out the third sentence of subsection (a) and inserting in lieu thereof two new sentences as follows: "The Secretary shall, on the fifteenth day of each month, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate setting forth the Secretary's best estimate of the second preceding month's expenditure, including administrative costs, as well as the cumulative totals for the fiscal year. In each monthly report, the Secretary shall also state whether there is reason to believe that reductions in the value of allotments issued to households certified to participate in the food stamp program will be necessary under subsection (b) of this section.";

(3) striking out "If" in the second sentence of subsection (b) and inserting in lieu thereof "Notwithstanding any other provision of this Act, if"; and

(4) adding at the end thereof new subsections (c) and (d) as follows:

"(c) In prescribing the manner in which allotments will be reduced under subsection (b) of this section, the Secretary shall ensure that such reductions reflect, to the maximum extent practicable, the ratio of household income, determined under sections 5(d) and 5(e) of this Act, to the income standards of eligibility, for households of equal size, determined under section 5(c) of this Act. The Secretary may, in prescribing the manner in which allotments will be reduced, establish (1) special provisions applicable to persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise disabled, and (2) minimum allotments after any reductions are otherwise determined under this section.

"(d) Not later than sixty days after the issuance of a report under subsection (a) of this section in which the Secretary expresses the belief that reductions in the value of allotments to be issued to households certified to participate in the food stamp program will be necessary, the Secretary shall take the requisite action to reduce allotments in accordance with the requirements of this section. Not later than seven days after the Secretary takes any action to re-

duce allotments under this section, the Secretary shall furnish the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth (1) the basis of the Secretary's determination, (2) the manner in which the allotments will be reduced, and (3) the action that has been taken by the Secretary to reduce the allotments.".

EXCESS MEDICAL EXPENSE AND EXCESS SHELTER EXPENSE DEDUCTIONS FOR ELDERLY PERSONS AND PERSONS RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS

SEC. 2. Section 5(e) of the Food Stamp Act of 1977 is amended by—

(1) inserting in the fourth sentence after "Households" the following: ", other than those households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act,"; and

(2) adding at the end thereof a new sentence as follows: "Households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act shall also be entitled to—

"(A) an excess medical expense deduction for that portion of the actual cost of allowable medical expenses, incurred by household members who are sixty years of age or older or who receive supplemental security income benefits under title XVI of the Social Security Act, exclusive of special diets, that exceed $35 a month, which shall, starting July 1, 1979, be adjusted every July 1 and January 1 to the nearest $5 to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for items other than food for the six months ending the preceding March 31 and September 30, respectively;

"(B) a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expense deduction contained in clause (2) of the preceding sentence, for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education that is preparatory for employment; and

"(C) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deduction have been allowed.".

DEFINITION OF ALLOWABLE MEDICAL EXPENSES

SEC. 3. Section 3 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (q) as follows:

"(q) 'Allowable medical expenses' means expenditures for (1) medical and dental care, (2) hospitalization or nursing care (including hospitalization or nursing care of an individual who was a household member immediately prior to entering a hospital or nursing home), (3) prescription drugs when prescribed by a licensed practitioner authorized under State law and over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional, (4) health and hospitalization insurance policies (excluding the costs of health and accident or income maintenance policies), (5) medicare premiums related to coverage under title XVIII of the Social Security Act, (6) dentures, hearing aids, and prosthetics (including the costs of securing and maintaining a seeing eye dog), (7) eye glasses prescribed by a physician skilled in eye disease or by an optometrist, (8) reasonable costs of transportation necessary to secure medical treatment or services, and (9) maintaining an attendant, homemaker, home health aide, housekeeper, or child care services due to age, infirmity, or illness.".

EFFECTIVE DATE

SEC. 4. The provisions of this Act shall take effect on the date of enactment, except that the provisions of sections 2 and 3 shall take effect on the first day of the first month that begins after the date of enactment.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the amendment of the Committee on Agriculture, Nutrition, and Forestry to S. 1309 be agreed to and the bill, as amended be considered as original text for the purpose of further amendment.

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

Mr. McGOVERN. Mr. President, I ask unanimous consent that the following staff members of the Committee on Agriculture, Nutrition, and Forestry be granted the privilege of the floor during consideration of and votes on S. 1309; Henry Casso, Carl Rose, Marshall Matz, Bill Lesher Steve Storch, George Dunlop, and John Bode.

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

Mr. McGOVERN. Mr. President, I ask unanimous consent that Nancy Foster of Senator STONE's staff, Joe Richardson of the Congressional Research Service and John Siegel of Senator RIBICOFF's staff, be granted the privilege of the floor during consideration of this bill.

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

Mr. McGOVERN. Mr. President, S. 1309, the legislation that is now pending before the Senate, makes a number of urgently needed changes in the Food Stamp Act of 1977.

The Food Stamp Act of 1977 was a bipartisan piece of legislation that substantially restructured the food stamp program.

It attempted to restrict eligibility to only those who were in need of assistance, and, at the same time, make the program more accessible to those Congress wanted the program to serve.

I think it is fair to say that all members of the Committee on Agriculture, Nutrition, and Forestry, as well as other Senators, have been concerned about any indication that the food stamp program contained abuses or was being exploited unfairly by people who were not entitled to participate in the program. However small a percentage of the program those cases represented, any percentage is too large. For that reason, the 1977 act was passed, after many months of deliberation and care on the part of the committee, to correct what we perceived as either actual abuses or possible abuses in the program.

To this end, we eliminated the purchase requirement that had been the subject of a great deal of abuse and some fraud, as well as a provision that had excluded some of the poorest people from the program.

Second, we established a gross income ceiling for the first time, so that once a family got up to a certain level of income, no matter how many other considerations might exist, they were ineligible for participation in the program.

We adopted a strong work registration provision to get at the charge that was made that some people who were eligible to work were using food stamps rather than working. I believe we wrote a very stiff program in the law aimed at that problem.

We put limits on the assets that any food stamp participant could have and still qualify for the program, and we restricted student participation in the program, which was one area of abuse that disturbed a number of members of the committee.

By and large, I think we succeeded in correcting most of the abuses in the program; and I have no hesitancy in saying to my fellow Senators and my fellow Americans that the food stamp program works and it works very well.

It provides minimal benefits that come to about 33 cents per meal for each participant, on the average; 50 percent of all food stamp households have incomes under $3,600 a year, and some 75 percent of all the people receiving food stamps are in families with incomes of under $4,800 a year; 85 percent have incomes under $6,000.

So the notion that, somehow, the food stamp program is being given to people with comfortable incomes simply does not withstand the facts. Most of the people—nearly all the people—in the food stamp program can truthfully be classified as poor people.

When a team of medical experts sponsored by the Field Foundation went out into the country as a 10-year followup to President Nixon's 1969 Declaration of War on Hunger in America, they found:

> Our first and overwhelming impression is that there are far fewer grossly malnourished people in this country today than there were 10 years ago . . . the facts of life for Americans living in poverty remain as dark or darker than they were 10 years ago. But in the area of food there is a difference. The food stamp program, the nutritional component of Head Start, school lunch and breakfast programs, and to a lesser extent the women-infant-children (WIC) feeding programs have made the difference.

Mr. President, this foundation, the Field Foundation, is the same one that 10 years earlier had found widespread and obvious and painful malnutrition among millions of Americans. Now they are reporting a dramatic improvement in the nutritional health of the American people.

TWO EMERGENCIES

Notwithstanding this general overview, the food stamp program is now faced with two emergency situations that require congressional action:

Extraordinary food-price inflation and the entrance of new recipients earlier than had been expected due to elimination of the food stamp purchase requirement, have forced program funding needs above the 1979 appropriations ceiling set in 1977. This has created the prospect of drastic emergency reductions in food stamp benefits this summer and fall, unless Congress acts to increase the 1979 appropriations ceiling.

Changes in the food stamp eligibility and benefit rules legislated in 1977 are causing severe hardships among elderly and disabled recipients with high medical and shelter expenses. Their benefits will continue to be insufficient to insure

an adequate diet, unless Congress acts to allow their extraordinary medical and shelter expenses to be taken into account.

S. 1309 addresses both of these situations. It would raise the 1979 appropriations ceiling on the food stamp program to a point where current food stamp benefits may continue through this fiscal year. Further, it includes provisions that should help deal with this type of situation in the future. Under the committee bill, monthly reports on food stamp funding and any need for benefit reductions will forewarn Congress of any future funding shortfalls, as well as allow the Secretary to reduce benefits, if necessary, on other than a pro rata basis.

The emergency situation now being faced by elderly and disabled recipients with high medical and shelter costs—forcing them to choose between food and absolutely necessary medical or shelter expenses—is ameliorated by providing that these expenses can be deducted when they consume excessive amounts of recipients' income.

INCREASE IN THE 1979 APPROPRIATIONS CEILING

Food prices are one of the primary determinants of the cost of the food stamp program. The 1979 appropriations ceiling was formulated in 1977, based on the best available estimates. Those estimates have simply proven to be wrong. Using fiscal year 1976 as a base period, 1977 projections of food price rises indicated a 16.9-percent increase by 1980 and a 21.8-percent increase by 1981. However, using the same base period, food price rises are now expected to average more than double those rates, a 38.2-percent increase by 1980 and a 48.1-percent increase by fiscal 1981. The effect of these changes is enormous. A single percentage point change in food price inflation has the potential of adding $60 million in benefit costs.

There has been a great deal of discussion about the causes of the need for increased 1979 appropriations. The fact of the matter is that the primary cause is food price inflation. It seems ironic to penalize food stamp recipients by reducing their allotments at precisely the time that inflation is undercutting the value of their existing allotments. That is precisely what would happen if S. 1309 is not approved. Section 18(b) of the Food Stamp Act of 1977 would mandate that pro rata cuts in allotments be accomplished if the Secretary finds that insufficient program funding is available. Without increased funding there will be insufficient funding for a portion of this fiscal year and reductions will have to be made.

The Food Stamp Act of 1977 contained two major modifications in program operations, first, the purchase requirement was eliminated and second, the allowable deductions under the program were restructured to insure that program benefits went to the lowest-income households.

The absolute number of new program participants was reasonably, although not exactly, forecast in 1977. However, what was not anticipated was the speed with which these new participants have entered the program. Rather than a phased-in, even growth in participation, there has been an extremely rapid front-end load. This is evidence of the fact that there were many people who were eligible for program participation who were unable to participate because of the purchase requirement. The 1977 act reduced program eligibility, but increased participation among those eligible.

The five distinguished members of the committee who filed minority views think that the Food and Nutrition Service has "blackmail(ed) Congress" through "deliberately defective administrative judgments."

This is a serious charge. However; I have found nothing that would lead me to believe that there was intentional mismanagement.

Not every decision made by the Food and Nutrition Service may have been mine if I operated the program, but the same could be said for any program. However, I have the benefit of hindsight. That is a luxury that administrators who have to make a decision do not have.

In any event, forcing reductions in benefits to 19 million food stamp recipients hardly seems to be the right avenue for attacking perceived fiscal irresponsibility by Federal administrators.

Both of the Oklahoma and Louisiana officials referred to in the minority views supported increasing the authorization ceiling.

Time is of the essence. The need for the increase in the 1979 appropriations ceiling is real and pressing, the supplemental appropriation for the program contained in H.R. 4289 is contingent upon the enactment of the authorizing legislation before the Senate.

REPEAL OF CARRYOVER AUTHORITY

Chairman Talmadge, the author of S. 1309, introduced an amendment in committee that was adopted that would repeal the carryover authority for the food stamp program, I share the concerns of my colleagues that the presence of carryover authority distorts true program costs. It is my hope that the removal of this authority will facilitate more accurate determinations of actual program costs.

REPORTING REQUIREMENTS AND THE METHOD FOR REDUCING ALLOTMENTS IF INSUFFICIENT FUNDING IS AVAILABLE

S. 1309 also contains an amendment offered by Senator LUGAR that would require the Secretary to file monthly reports, by the 15th day of each month, on food stamp program costs for the second preceding month. In each report, the Secretary is to state whether there is reason to believe that reductions in food stamp benefits will be necessary due to any insufficiency of appropriated funds. This new reporting requirement will keep Congress abreast of the status of the program to a for greater extent than is currently the case. A greater dialog between the Department and Congress will hopefully be initiated so that reasoned evaluations of program performance will be possible and that speculation over the reasons for programmatic decisions can be allayed.

The Lugar amendment would also permit the Secretary to make reductions in the value of food stamp allotments on other than a pro rata basis (by weighing reductions toward higher-income recipients) if such action becomes necessary due to any insufficiency of appropriated funds. The Secretary would also be authorized to prescribe first, special provisions applicable to the elderly and disabled and second, minimum allotments, if reductions in the value of allotments become necessary. These provisions will provide the Secretary with flexibility in the manner in which reductions are accomplished, if such reductions become necessary. As stated in the committee's report on S. 1309, the Lugar amendment does not change the standard in existing law to be followed by the Secretary in making a finding that the requirements of participating States will exceed available appropriations.

EXCESS MEDICAL EXPENSE AND EXCESS SHELTER EXPENSE REDUCTIONS FOR ELDERLY AND DISABLED FOOD STAMP RECIPIENTS

Prior to the implementation of the eligibility and benefit provisions of the Food Stamp Act of 1977, all households participating in the food stamp program could deduct the amount of their actual shelter costs that exceeded 30 percent of their program income (after other deductions), without limit, and the amount of their actual medical expenses when they exceeded $10 per month. In effect, this allowed varying, sometimes substantial, portions of income to be disregarded in eligibility and benefit determinations.

Under the 1977 act, participating households can now deduct the amount of their actual shelter costs in excess of 50 percent of their program income (after other deductions), up to $90 per month if no dependent-care deduction is claimed. The new law incorporates the preexisting medical expense deduction into a $65 per month standard deduction ($70 per month effective July 1, 1979).

The increase from 30 to 50 percent in the trigger point for the excess shelter expense deduction coupled with the imposition of a ceiling on the amount allowable for that deduction and the elimination of a separate medical expense deduction have resulted in severe hardship for many participating households that contain an elderly or disabled person.

This situation has been further aggravated for these households by the establishment in the 1977 act of a uniform 30 percent benefit reduction rate. Under the 1964 act, the benefit reduction rates ("purchase requirements") were established so that they increased as household income and size increased. No participating household had a benefit reduction rate of 30 percent and the average was less than 25 percent. Due to the small size of elderly and disabled households, they had benefit reduction rates that were substantially below the 30 percent maximum, and even below the average.

During the consideration of the 1977 act, Congress recognized that some households would be rendered ineligible for program participation and that some households would lose benefits under the new provisions. However, the extreme severity of the benefit reductions now being experienced among the elderly and disabled was not foreseen.

In order to remedy this situation, S. 1309 reinstates an excess medical expense deduction for the actual medical expenses of food stamp recipients who are 60 years of age or older; or who receive SSI benefits, that exceed $35 per month. The ceiling on the excess shelter deduction for households containing these recipients would be removed. Senator STONE, a vocal proponent for the rights of the elderly and disabled, is largely responsible for the inclusion of this provision in the bill. He is to be commended for his fine efforts.

Mr. President, I yield the floor now to my colleague and friend, Senator HELMS.

Mr. HELMS. I thank the Senator from South Dakota.

Mr. President, S. 1309, as amended, was reported by the Senate Committee on Agriculture, Nutrition, and Forestry with the minority views of the Senator from North Carolina plus Senators HAYAKAWA, LUGAR, BOSCHWITZ, and JEPSEN.

While only Senator HAYAKAWA and I voted not to report the bill, we were joined by the others in the presentation of the minority views because of their realization of the need for stronger congressional control over the food stamp program in the face of mismanagement by the Federal food stamp officials.

The food stamp program is out of control. The very fact that we are considering this bill today is all the evidence we need to prove that assertion. This bill permits an increase in authorization for fiscal year 1979 by $999 million over the amount originally appropriated for this year. Mr. President, $1 billion is a big change of plans, and one that is immensely costly to the American taxpayers.

FUNDING OVERREACTION

Of course, this vast increase is an overreaction to the funding crisis experienced because of a combination of mismangement and inflation. The Congressional Budget Office has reported to me that the Food and Nutrition Service simply does not need that much money. In fact, CBO has reported that FNS would need only $666 million more to run the program.

I must say $666 million, Mr. President, is a lot of money down where I come from.

I am afraid Congress has become so accustomed to mismanagement of the food stamp program that Congress finds it necessary to add an extra $330 million for just a couple of months remaining in this fiscal year. The arithmetic of that speaks for itself. That is why this Senator feels obligated to continue to do what he can to cut back on the abuse of this program and the concurrent abuse of the American taxpayer.

Senators may recall the efforts Senator HAYAKAWA and I made to reduce the supplemental appropriations bill on June 25 and 26. We were not successful in those efforts.

The Senate voted, and I am convinced unwisely voted, to provide hundreds of millions of dollars more than the Congressional Budget Office said was necessary.

I note that events have proven the Senator from California (Mr. HAYAKAWA) and me correct because, after adopting its new economic assumptions, which were well publicized because of the increase that had been forecast in unemployment with continued high inflation, the Congressional Budget Office has made only a very moderate adjustment in its projection of program costs for the fiscal year 1979. In addition, CBO now refuses to provide range estimates of program costs because it is pointless to continue a program of cost estimates based upon economic assumptions that we clearly will not experience.

It is also of interest that the Conference Committee on the 1979 Supplemental Appropriations bill voted to reduce the level of funding for the food stamp program by some $88 million even before this latest CBO information was available. I am confident that the economy of the Congressional Budget Office estimates which the Senator from California and I have endorsed will be further supported by the light of experience.

MISMANAGEMENT

In any case, Mr. President, the minority views expressed in the report on this bill detail, specifically, the reasons the Food and Nutrition Service got itself into the situation of requiring any additional funds.

I believe we have effectively documented the mismanagement and blunders that caused the massive cost overruns. The upshot of our report is that Food and Nutrition Service officials have not given the slightest attention to the need for thrifty management of their budget, and have made decisions that anyone with common sense could have determined would have had adverse budgetary impact. And I call attention to the minority views to which I alluded earlier because these views outline that information in detail and Senators, or their aides, who may be listening to this debate by loudspeaker in their offices might well at this point obtain a copy of the minority views and look at them.

This Senator from North Carolina believes it is time for Congress to stop bailing out every Federal agency which acts in wanton disregard of the budgetary process and of sound fiscal management. The food stamp program, in particular, is crying out for a reassertion of congressional control.

FRAUD

The food stamp program is surely one of the most problem ridden of all Federal efforts of its kind. I can think of no other program in which there is so much potential for fraud and abuse.

There is not a Senator in this Chamber who does not hear constantly from his or her constituents regarding the food stamp program. Certainly this Senator does.

What distresses me most is the realization that future generations will have to pay for the funds now being borrowed to provide food stamps for people who cheat. Those are blunt words, Mr. President, but they fit the situation.

And as my colleagues probably realize, the public is thoroughly disenchanted with this program. My distinguished colleague from North Carolina, Mr. MORGAN, conducted a survey not long ago in which he found a majority of our constituents—Mr. MORGAN's and mine in North Carolina—feel that the food stamp program should be eliminated entirely. Those are the findings of Mr. MORGAN's constituent survey. Personally, I believe the reason this hostility is based on the fact that fraud in the food stamp program is so highly visible.

While the management of the program at the Federal level does little to inspire public confidence and the esteem of their associates in the State food stamp agencies, part of the blame for the extensive abuse in the program lies in the deficiencies in the Food Stamp Act itself. This act certainly needs tightening if the program is to be managed with any degree of fiscal responsibility.

ADMINISTRATIVE CHANGES

To help address some of the deficiencies in the act, I have worked closely with a bipartisan coalition of the members of the Agriculture Committee to develop four amendments to S. 1309. All of these amendments are very reasonable administrative changes directed toward the prevention of fraud in the program. I believe that any Senator who has concern for sound management and fiscal responsibility will support the amendments.

These amendments are an effort to strike at the problem of fraud and abuse in the program. They are designed to insure that ineligibles do not draw benefits and thereby sap the resources of the program. Simply put, these amendments strike at the greedy, but not the needy.

Now, let me make it clear that these amendments will not entirely solve the many problems that plague the program. Frankly, they will only scratch the surface in terms of saving the hundreds of millions of dollars that are wasted each year in this program. However, they are a step in the right direction.

They establish the basic principle that the regulations under which the program is managed ought to be drawn with an eye toward a frugal and fiscally responsible administration of the program. They reassert congressional control, and implement needed reforms intended to be effective at the earliest date possible.

The amendments that I alluded to earlier are simple administrative changes which will cause clear results. They are not complicated amendments requiring extensive study or sophisticated knowledge of the program. To be honest about it, Mr. President, I have withheld complicated amendments for the time being because this bill is not the proper vehicle for such changes. There will be ample opportunities for more thorough legislative initiatives later, and I will guarantee the Chair that this Senator is prepared to propose them at the proper time.

But there is no reason for delaying the implementation of simple program changes that can have immediate and effective results.

Mr. President, I ask unanimous consent that copies of correspondence that I have had with the Congressional Budget Office be printed in the RECORD.

There being no objection, the letters

were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 11, 1979.

Dr. ALICE M. RIVLIN,
Director, Congressional Budget Office, Washington, D.C.

DEAR DR. RIVLIN: In the past months you have been good enough to provide my colleagues and me continued updates of estimated food stamp program costs for fiscal year 1979, assuming the amendment of the program's authorization limit. I appreciate the efforts of you and your staff.

Would you please assist us further by providing me any available revised estimate of fiscal year 1979 food stamp program costs based upon your latest economic assumptions and more current program data? Also, since my colleagues have in the past obtained from you range estimates, please provide me the range in which you now estimate total program costs for fiscal 1979 will fall.

I would be most appreciative of a response to my request this week.

With kindest regards.

Sincerely,

JESSE HELMS.●

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., July 13, 1979.

Hon. JESSE HELMS,
U.S. Senate, Washington, D.C.

DEAR SENATOR HELMS: This letter responds to your request of July 11, for the most current fiscal year 1979 food stamp program estimates given our latest economic assumptions.

The Congressional Budget Office recently released an update to its economic projections for 1979 and 1980. This report is enclosed. Inflation, especially in the fuel and food sectors, has been worse than projected earlier this year. CBO concludes that the most likely outcome for the remainder of 1979 is a mild recession with rising unemployment and high, but moderate rates of inflation.

The new economic assumptions coupled with preliminary food stamp program data through the month of April, results in a small upward adjustment to our estimate prepared in May. The latest April participation figures of 18.9 million persons show practically no increase over the previous months. This stabilization in program growth had previously been projected by the CBO.

Total food stamp obligations for fiscal year 1979 are now projected to be $6.817 million. This represents an upward adjustment of approximately $40 million from our previous estimate. Accounting for unobligated fiscal year 1978 appropriations, the revised estimate suggests a needed new appropriation of $6,478 million. This would be $320 million over the current law's authorization ceiling of $6,159 million.

My staff has already discussed with your staff the issue of providing range estimates for fiscal year 1979. While some variability in the estimate is to be expected, no further range estimates will be provided for fiscal year 1979.

I hope this information will be of assistance to you. If you have any further questions, please let us know.

With best wishes,

Sincerely,

ALICE M. RIVLIN,
Director.

Mr. HELMS. Mr. President, I ask unanimous consent that Senator BOSCHWITZ be added as a cosponsor of printed amendments 317, 318, 319, and 320.

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

Mr. HELMS. I thank the Chair.

Mr. President, Senator MCGOVERN intends to offer substitute language for this bill as reported out of the committee. Since that substitute language includes the four amendments to which I alluded earlier, I think it would conserve the Senate's time for the distinguished Senator to move his substitute language now rather than for me to offer the amendments that I had planned to move at this time.

So if he is ready I will yield.

Mr. TALMADGE. Mr. President, will the Senator withhold that until I make a few brief remarks?

Mr. MCGOVERN. Yes.

Mr. HELMS. I am delighted to do so and yield to my friend from Georgia.

Mr. TALMADGE. I appreciate that.

Mr. President, first, I desire to compliment the distinguished chairman of the subcommittee, the Senator from South Dakota, and the distinguished ranking minority member of our full committee, the distinguished senior Senator from North Carolina, for the outstanding work that they have done in this regard.

I was one of the original authors of the food stamp program. I share the view of the distinguished Senator from North Carolina that this program has gotten out of hand in many instances, and I have voted for amendments from time to time to try to correct some of the loopholes and reduce the number of people of substantial incomes who participated in the food stamp program.

I know of nothing that makes the average American madder than to see families whose incomes are greater than his own on food stamps and on welfare when they themselves are hard working and drawing no benefits whatever from the Government.

However, this particular bill is necessary legislation because the act is now on the statute books, and if that is to be funded, it is necessary that this bill pass today.

Some of the amendments that have been suggested by the distinguished Senator from North Carolina have been incorporated in a substitute amendment that will be offered by the distinguished chairman of the subcommittee, and I support those amendments.

INCREASE IN 1979 AUTHORIZATION FOR APPROPRIATIONS

S. 1309 would increase the fiscal year 1979 authorization for appropriations for the food stamp program by $620 million, from $6,158,900,000 to $6,778,900,000. The supplemental appropriation for the program contained in H.R. 4289 is contingent upon the enactment of the authorizing legislation.

The increase in the 1979 authorization ceiling is an emergency measure. If the current authorization ceiling for fiscal year 1979 remains in effect, adequate funds will not be available and allotments will have to be reduced under section 18(b) of the Food Stamp Act of 1977. This would be totally contrary to the purpose of the food stamp program. Poor people who are participating in the program because of insufficient purchasing power will have their food stamp benefits reduced because of higher food prices, thereby further reducing their food purchasing power. A period of sharply escalating food prices is precisely when recipients need adequate food stamp benefits the most. These are people who are powerless to alter the course of food price inflation and who, without this bill, will be heavily penalized for this same inflation.

The increase in the 1979 authorization ceiling is simply a recognition of the fact that food stamp program costs for fiscal year 1979 have increased significantly above those estimated in 1977 when the existing ceiling was set.

The Committee on Agriculture, Nutrition, and Forestry will continue to strive to make improvements in the food stamp program to insure that program benefits are channeled to the truly needy.

REPEAL OF AUTHORITY FOR CARRYOVER OF APPROPRIATIONS

S. 1309, while increasing the 1979 authorization ceiling, also tightens the funding of the food stamp program by deleting the provision in the 1977 act that provides that "sums appropriated under the provisions of this act shall, notwithstanding the provisions of any other law, continue to remain available until expended." The removal of this carryover requirement will allow Congress to get a better handle on yearly program costs. If the full amount of appropriated funds in any fiscal year is in excess of program demands for that year, the unused funds would be returned to the Treasury rather than being carried over to the next fiscal year and used as a "cushion." Although the Appropriations Committees could reinstate carryover authority in the yearly appropriation bills, it is my hope that they will not choose to follow that course.

METHOD FOR REDUCING ALLOTMENTS IF APPROPRIATIONS ARE INSUFFICIENT

The committee adopted an amendment offered by Senator LUGAR that would, among other things, allow the Secretary of Agriculture to reduce the value of allotments to households certified as eligible to participate in the food stamp program on other than a pro rata basis when such action is necessary because of any insufficiency of appropriated funds.

The Lugar amendment also requires the Secretary to file monthly reports with the congressional agriculture committees and to take requisite action to reduce benefits within 60 days of the issuance of a monthly report in which the Secretary expresses the belief that benefit reductions will be necessary.

This amendment will provide Congress with the facts and figures upon which to evaluate program performance in a timely manner. It should provide a greater interchange of information between the Department and Congress and give Congress sufficient time to avoid legislating in the shadow of an impending emergency.

It is expected that the rapid increase in program participation since January 1979, due to implementation of the 1977 Act, will abate and that long-range projections of anticipated program costs will be easier to make. When these factors are coupled with the new monthly reporting requirement, the likelihood of the need for emergency legislation should be substantially reduced.

EXCESS MEDICAL EXPENSE AND EXCESS SHELTER EXPENSE DEDUCTIONS FOR ELDERLY PERSONS AND PERSONS RECEIVING SSI BENEFITS

The implementation of the 1977 Act has resulted in extreme hardship for

some elderly and SSI recipient food stamp participants. These hardships are largely attributable to changes in the computation of the excess shelter expense deduction coupled with the imposition of a ceiling on the maximum allowable amount for that deduction and the elimination of a separate medical expense deduction. The committee adopted an amendment offered by Senator STONE that will ameliorate the unintended hardships caused by the 1977 act to the extent they are due to extraordinary shelter or medical expenses.

CONCLUSION

I would like to take a moment to express my appreciation to Senators LUGAR and STONE for their amendments. They have improved S. 1309. Senator MCGOVERN is to be commended for his thorough and expeditious handling of this bill in subcommittee. Senator HELMS, the ranking minority member of the committee, displayed his usual cooperative and courteous manner during consideration of S. 1309.

I recognize and share the concerns of many of my colleagues about the administration of the food stamp program, the implementation schedule of the 1977 Act, and the gross income ceilings for participants. I hear, with the same frequency as my colleagues, about the fraud, abuse, and mismanagement in the program. It seems at times as if each and every one of my constituents has a definite opinion on food stamps.

It is the national policy that no one in the United States go hungry or have an inadequate diet. The food stamp program helps carry out that national policy. But it is imperative that the program be properly managed and fraud and abuse be eliminated.

Mr. HELMS. Mr. President, I thank the distinguished Senator from Georgia who, of course, is the chairman of the Agriculture Committee, and I want him to know it is a pleasure and a privilege to work with him on this committee.

Mr. TALMADGE. I thank my distinguished friend from North Carolina, and I can say that it is mutual.

Mr. McGOVERN. Mr. President, let me also say to our chairman that I thank him for the kind words he had to say about Senator HELMS and me. I, too, have thoroughly enjoyed and profited from working with Senator TALMADGE over the years as a member of the Committee on Agriculture.

Mr. METZENBAUM. Mr. President, I want to express my strong support for the changes that the committee has made in the food stamp program.

In particular, I am pleased that the committee has seen fit to provide increased benefits to the elderly through the mechanism of broader deductions. Under the present medicare system, the elderly, who live on fixed incomes, continue to be burdened with heavy deductibles, coinsurance, and fees for physicians who refuse to accept assignment. This bill would reduce this burden by allowing the elderly to deduct these expenses, thereby making some needy individuals eligible for new or increased benefits.

Because medicare coverage still entails deductibles, coinsurance, and lifetime limits on benefits, some elderly have chosen to purchase special insurance policies, sometimes called medigap insurance, to cover the extra costs of becoming ill. Invariably, purchase of these policies is cost effective for both the aged person and the Government. Costs of the premiums are not likely to exceed potential out of pocket expenses for the elderly while at the same time, these policies obviate the need for the elderly to have medicaid cover their costs.

Payments for health insurance policies, however, are not always allowable for medical expense deductions. Therefore, I would like to ask the Senator from South Dakota if it is the intent of this legislation to include medigap insurance policy payments in the allowable medical deductions in the determination of eligibility for food stamps.

Mr. McGOVERN. I am glad that the Senator from Ohio has raised this issue. Yes, it is the intent of this law to include medigap insurance policy premiums in the definition of medical expenses. I agree with Senator METZENBAUM that the elderly do experience an exceptional burden with the costs of health care. One purpose of this bill is to try and alleviate this burden by not making the elderly choose between food and medical care.

Mr. METZENBAUM. I thank the Senator.

AMENDMENT NO. 362

Mr. McGOVERN. Mr. President, I call up amendment No. 362 which, as has already been said, is an amendment in the nature of a substitute, and I ask for its immediate consideration.

The PRESIDING OFFICER (Mr. LEVIN). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN), for himself, Mr. DOLE, Mr. MAGNUSON, and Mr. EAGLETON, proposes an amendment numbered 362.

Mr. McGOVERN. 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:

Strike out all after the enacting clause and insert in lieu thereof the following:

"INCREASE IN 1979 AUTHORIZATION FOR APPROPRIATION; REPEAL OF AUTHORITY FOR CARRY-OVER OF APPROPRIATIONS; METHOD OF REDUCING ALLOTMENTS IF APPROPRIATIONS ARE INSUFFICIENT

"SECTION 1. Section 18 of the Food Stamp Act of 1977 is amended by—

"(1) striking out '$6,158,900,000' in the first sentence of subsection (a) and inserting in lieu thereof '$6,778,900,000';

"(2) striking out the third sentence of subsection (a) and inserting in lieu thereof two new sentences as follows: 'The Secretary shall, on the fifteenth day of each month, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate setting forth the Secretary's best estimate of the second preceding month's expenditure, including administrative costs, as well as the cumulative totals for the fiscal year. In each monthly report, the Secretary shall also state whether there is reason to believe that reductions in the value of allotments issued to households certified to participate in the food stamp program will be necessary under subsection (b) of this section.";

"(3) striking out 'if' in the second sentence of subsection (b) and inserting in lieu thereof 'Notwithstanding any other provision of this Act, if'; and

"(4) adding at the end thereof new subsections (c) and (d) as follows:

"(c) In prescribing the manner in which allotments will be reduced under subsection (b) of this section, the Secretary shall ensure that such reductions reflect, to the maximum extent practicable, the ratio of household income, determined under sections 5 (d) and 5(e) of this Act, to the income standards of eligibility, for households of equal size, determined under section 5(c) of this Act. The Secretary may, in prescribing the manner in which allotments will be reduced, establish (1) special provisions applicable to persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise disabled, and (2) minimum allotments after any reductions are otherwise determined under this section.

"'(d) Not later than sixty days after the issuance of a report under subsection (a) of this section in which the Secretary expresses the belief that reductions in the value of allotments to be issued to households certified to participate in the food stamp program will be necessary, the Secretary shall take the requisite action to reduce allotments in accordance with the requirements of this section. Not later than seven days after the Secretary takes any action to reduce allotments under this section, the Secretary shall furnish the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth (1) the basis of the Secretary's determination, (2) the manner in which the allotments will be reduced, and (3) the action that has been taken by the Secretary to reduce the allotments.'.

"EXCESS MEDICAL EXPENSE AND EXCESS SHELTER EXPENSE DEDUCTIONS FOR ELDERLY PERSONS AND PERSONS RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS

"SEC. 2. Section 5(e) of the Food Stamp Act of 1977 is amended by—

"(1) inserting in the fourth sentence after 'Households' the following: ', other than those households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act,'; and

"(2) adding at the end thereof a new sentence as follows: 'Households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act shall also be entitled to—

"'(A) an excess medical expense deduction for that portion of the actual cost of allowable medical expenses, incurred by household members who are sixty years of age or over or who receive supplemental security income benefits under title XVI of the Social Security Act, exclusive of special diets, that exceed $35 a month, which shall, starting July 1, 1979, be adjusted every July 1 and January 1 to the nearest $5 to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for items other than food for the six months ending the preceding March 31 and September 30, respectively;

"'(B) a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expense deduction contained in clause (2) of the preceding sentence, for the actual cost of payments necessary for the care of a depend-

ent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education that is preparatory for employment; and

"'(C) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deductions have been allowed.'.

"DEFINITION OF ALLOWABLE MEDICAL EXPENSES

"SEC. 3. Section 3 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (q) as follows:

"'(q) "Allowable medical expenses" means expenditures for (1) medical and dental care, (2) hospitalization or nursing care (including hospitalization or nursing care of an individual who was a household member immediately prior to entering a hospital or nursing home), (3) prescription drugs when prescribed by a licensed practitioner authorized under State law and over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional, (4) health and hospitalization insurance policies (excluding the costs of health and accident or income maintenance policies), (5) medicare premiums related to coverage under title XVIII of the Social Security Act, (6) dentures, hearing aids, and prosthetics (including the cost of securing and maintaining a seeing eye dog), (1) eye glasses prescribed by a physician skilled in eye disease or by an optometrist, (8) reasonable costs of transportation necessary to secure medical treatment or services, and (9) maintaining an attendant, homemaker, home health aide, housekeeper, or child care services due to age, infirmity, or illness.'.

"PROVISION OF INFORMATION

"SEC. 4. Section 16 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (f) as follows:

"'(f) The Secretary and State agencies may require, obtain, and use social security account numbers assigned to members of households applying for or participating in the food stamp program under the same terms and conditions as the Secretary of Health, Education, and Welfare and State agencies under part A of title IV of the Social Security Act. The Secretary and State agencies shall also have access to data from other Federal programs for individual food stamp program applicants and participants who receive benefits under title XVI of the Social Security Act and may use such data under the same terms and conditions as the Secretary of Health, Education, and Welfare under title XVI of the Social Security Act.'.

"REPAYMENT FOR FRAUDULENT CONDUCT

"SEC. 5. Section 6(b) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new sentence as follows: 'After any specified period of disqualification pursuant to findings under clauses (1) and (2) of this subsection, no disqualified individual shall be eligible to participate in the food stamp program unless such individual agrees to (A) a reduction in the allotment of the household of which such individual is a member or (B) to repayment in cash, in accordance with a reasonable schedule as determined by the Secretary that will be sufficient over time to reimburse the Federal Government for the value of the coupons obtained through the fraudulent conduct. If any disqualified individual elects repayment in cash under the provision of the preceding sentence and fails to make payments in accordance with the schedule determined by the Secretary, the household shall be subject to appropriate allotment reductions.'.

"STATE SHARE OF RECOVERIES

"SEC. 6. Section 16(a) of the Food Stamp Act of 1977 is amended by inserting before the period at the end thereof the following: 'as well as to permit each State to retain 50 per centum of the value of all funds or allotments recovered or collected through prosecutions or other State activities directed against individuals who fraudulantly obtain allotments as determined in accordance with this Act. The officials responsible for making determinations of fraud under this Act shall not receive or benefit from revenues retained by the State under the provisions of this subsection'.

"ELIGIBILITY VERIFICATION

"SEC. 7. Section 4(c) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new sentence as follows: 'The Secretary shall not preclude State agencies from adopting verification standards that supplement the verification standards issued by the Secretary under this Act.'.

"REMOVAL OF AUTHORIZATION FOR APPROPRIATIONS CEILING FOR 1980 AND 1981

"SEC. 8. The first sentence of section 18(a) of the Food Stamp Act of 1977 is amended by striking out all after '1979' and inserting in lieu thereof the following: '; and such sums as may be necessary for the fiscal years ending September 30, 1980, and September 30, 1981.'.

"GROUP LIVING ARRANGEMENTS FOR THE DISABLED OR BLIND

"SEC. 9. Section 3 of the Food Stamp Act of 1977 is amended by—

"(1) striking out in subsection (g) 'and (5)' and inserting in lieu thereof '(5) and (7)';

"(2) striking out in subsection (g) 'and (6)' and inserting in lieu thereof '(6)';

"(3) inserting immediately before the period at the end of subsection (g) the following: ', and (7) in the case of disabled or blind recipients of benefits under title II or title XVI of the Social Security Act who are residents in a public or private nonprofit group living arrangement that is certified by the appropriate State agency, or agencies under regulations issued under section 1616(e) of the Social Security Act, which serves no more than sixteen residents, meals prepared and served under such arrangement';

"(4) inserting in subsection (i) after 'elderly' the following: ', disabled or blind recipients of benefits under title II or title XVI of the Social Security Act who are residents in a public or private nonprofit group living arrangements that is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act, which serves no more than sixteen residents,';

"(5) inserting immediately before the period at the end of subsection (i) the following: 'and shall be considered individual households'; and

"(6) amending clause (2) of subsection (k) to read as follows: '(2) an establishment, organization, program, or group living arrangement referred to in subsections (g)(3), (4), (5), and (7) of this section,'.

"SEC. 10. Section 10 of the Food Stamp Act is amended by inserting after 'programs' the following: 'and public or private nonprofit group living arrangements that serve meals to disabled or blind residents'.

"EFFECTIVE DATE

"SEC. 11. (a) The provisions of this Act shall take effect on the date of enactment, except that the provisions of sections 2 and 3 shall take effect on the first day of the first month that begins after the date of enactment.

"(b) The provisions of sections 9 and 10 of this Act shall be implemented in all States by July 1, 1980, and shall not affect the rights or liabilities of the Secretary, States, and applicant or participating households, under the Food Stamp Act of 1977 in effect on July 1, 1979, until implemented.".

Amend the title so as to read: "A bill to increase the fiscal year 1979 authorization for appropriations for the food stamp program, and for other purposes.".

Mr. McGOVERN. Mr. President, the substitute amendment we just had reported contains 10 sections. It includes the four sections of S. 1309 as reported from the Committee on Agriculture, Nutrition, and Forestry. It includes the four amendments that Senator HELMS has already referred to here on the floor and which, I think, will strengthen the food stamp program.

It includes an amendment by Senator STAFFORD and Senator DOLE to allow handicapped persons living in community centers to participate; and it includes a section that would remove the specific dollar ceilings on the authorization for appropriations for the food stamp program for fiscal years 1980 and 1981.

As Senators know, at that time the present food stamp program expires, unless it is extended by Congress.

The food stamp program is a matter of great interest and, as we have already seen, the very mention of the program evokes strong emotions. These emotions sometimes result in misstatements or inaccuracies or exaggerations.

I would say without hesitation, Mr. President, that I do not believe this program is out of control. I would quickly add that it is not beyond improvement. But I think it goes too far to say it is out of control.

The program is growing primarily because of changes in the economy, and the fact that people who have always been eligible to participate have only recently been able to participate due to the elimination of the purchase requirement.

The food stamp program has been subjected to more rigorous oversight than, perhaps, any other program. It is true there has been a great deal of public criticism of the program, and criticism here in Congress, but that has not gone unobserved, and there have been actions by Congress steadily to strengthen the program, and these that are before us today, I think, will further tighten up and strengthen the program.

Congress has been very sensitive to needed modifications in the food stamp program. The Senate has labored long and hard on this program, and in recent months we approved the first concurrent budget resolution for fiscal year 1980 that provides program expenditures that are substantially in excess of the statutory ceiling.

When we considered the supplemental appropriations bill for fiscal year 1979, we voted to appropriate sums substantially in excess of the cap for this fiscal year after defeating soundly two amendments that would have reduced the amount recommended by the Committee on Appropriations.

We have included in the substitute amendment the amendments that were submitted by Senator HELMS because we believe they are acceptable. We feel it is

important, however, to remember that three of these four provisions are contained in S. 1310, the administration's bill that was introduced by Chairman TALMADGE by request. Senator HELMS has properly chosen the provisions of title I of S. 1310 that are most attractive. But if we are going to accept those provisions we should also adopt the funding provision that is contained in title II of S. 1310, because this bill is a part of a package.

There are several misconceptions about what the effect of removing the specific dollar ceiling for authorizations for appropriations will be. It will not return the program to the entitlement status it enjoyed prior to enactment of the Food Stamp Act of 1977. The language of sections 4(a) and 18(b) of the 1977 act, which conditions the amount of benefits to be received by food stamp households on the availability of appropriated funds, is untouched. Congress, through the appropriations process, will still determine what the level of program spending should be.

Adopting the substitute will not terminate consideration of cost-saving provisions or modifications in the food stamp program. Indeed adoption of the substitute can result in a more thorough investigation of all suggested proposals without the pressure of the need to attach these proposals to a bill dealing with the authorization ceilings. The subcommittee on nutrition is committed to holding hearings on these issues and bringing responsible legislation to the Senate floor.

Removal of the ceiling on the authorization for appropriations will not open "the floodgates" of the program. The existing income eligibility, assets requirements, and work registration provisions are left intact. These are the provisions, along with the cost of food, and the rate of unemployment, that determine the program's cost.

Questions may be raised as to why the substitute does not contain a sum certain for 1980 and 1981. The simple reason is that the food stamp program is deliberately designed to react quickly to changing economic conditions. We were not able to estimate a "right" number for this year until it was three-quarters over. In all likelihood that "right" number will not be known in the future until we are well into the respective fiscal year. The Senate has continuously shown its intent for full funding for the food stamp program. It should be remembered that the Food Stamp Act of 1977, as passed by the Senate, did not contain the "cap" or other provisions accepted in conference that altered the entitlement nature of the program.

The appropriations and budget processes are more than capable of determining what the level of funding should be.

This procedure works for other nonentitlement programs, and I think it will work for food stamps.

I urge my colleagues to join me in supporting this substitute.

I ask unanimous consent at this point in the RECORD to have printed a section-by-section analysis of the substitute.

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

SECTION-BY-SECTION ANALYSIS OF AMENDMENT NO. 362

Section 1(1).—Increase in the fiscal year 1979 authorization for appropriations for the food stamp program.

Section 1(1) amends the first sentence of section 18(a) of the Food Stamp Act of 1977 to increase the fiscal year 1979 authorization for appropriations by $620 million. The new appropriations ceiling for the 1977 program would be $6,778,900,000.

Section 1(2).—Removal of carryover authority; Secretary's reporting responsibilities.

Section 1(2) strikes the third sentence of section 18(a) of the Food Stamp Act of 1977 to remove the specific language, beginning with fiscal year 1980, providing for the carryover of unexpended appropriated funds from one fiscal year to the next, and inserts two new sentences. The Secretary of Agriculture would be required to file monthly reports, by the 15th day of each month, setting forth the Secretary's best estimate of the second preceding month's expenditure, including administrative costs, as well as the cumulative totals for the current fiscal year. In each monthly report, the Secretary would also state whether there is reason to believe that reductions in the value of allotments issued to households certified to participate in the program will be necessary due to any insufficiency of appropriated funds. (It is anticipated by the committee that each monthly report will include the number of individuals participating in the program and the cost of administering the program at the State level and at the national level.)

Sections 1(3) and 1(4).—Manner in which allotments may be reduced when appropriated program funds are insufficient.

Section 1(3) amends the second sentence of section 18(b) of the Food Stamp Act of 1977 to remove the requirement that the only available method for reducing program benefits when insufficient funds are available is on a pro rata basis.

Section 1(4) would add new subsections (c), and (d) to section 18 of the Food Stamp Act of 1977. New subsection (c) would require the Secretary to ensure that reductions in the value of allotments, when required under section 18(b), will reflect, "to the maximum extent practicable," the ratio of household program income to the income standards of eligibility for households of the same size with higher-income households bearing more of the reductions. The Secretary may establish (1) special provisions for the elderly, handicapped, and disabled and (2) minimum allotments after any reductions are otherwise determined.

New subsection (d) requires the Secretary to take the requisite action to reduce the value of allotments issued to households certified to participate in the food stamp program within 60 days after the issuance of a report, under section 18(a) as amended by the bill, in which the Secretary expresses his belief that such reductions will be necessary.

New subsection (d) also requires the Secretary, within 7 days of any action to reduce the value of allotments issued to households certified to participate in the program, to furnish the congressional agriculture committees with a statement setting forth (1) the basis of the Secretary's determination, (2) the manner in which the value of the allotments will be reduced, and (3) the action that has been taken by the Secretary to reduce the allotments.

Section 2. Deductions for households containing an elderly person or a person receiving Supplemental Security Income Benefits.

Section 2 amends section 5(e) of the Food Stamp Act of 1977 to provide households that contain an elderly person (60 years of age or older) or a person receiving Supplemental Security Income benefits, including those who receive only State supplementary payments, under title XVI of the Social Security Act with an excess medical expense deduction and to remove the ceiling on the excess shelter expense deduction for these households.

In addition to the standard deduction and the dependent care deductions, these households would be entitled to (1) an excess medical expense deduction for the actual cost of allowable medical expenses incurred by the elderly or SSI recipient household member that exceed $35 per month and (2) an excess shelter expense deduction to the extent that the monthly amount expended by the household for shelter exceeds 50 percent of monthly household income after all other applicable deductions have been allowable. Currently, there is a ceiling of $80 per month on the amount of the excess shelter expenses deduction that may be claimed.

Section 2 further provides that the $35 threshold for the excess medical expense deduction will be adjusted each July 1 and January 1 to the nearest $5 to reflect changes in the Consumer Price Index for the items other than food for the 6 months ending the preceding March 31 and September 30, respectively. (The committee expects that the Secretary, in administering the excess medical expense deduction, would provide that deductions be allowed for medical expenses incurred or billed as soon as possible, so long as third-party reimbursements or insurance payments, whether to the recipient or care provider, are verified. In some cases, this could result in deductions not being granted until a bill had actually been paid, in order to ascertain the extent of a reimbursement or insurance payment. However, it would keep the treatment of excess medical expense deductions as consistent as possible with the prospective accounting system used throughout the food stamp program, while protecting against deductions for expenses not actually paid by the recipient.)

Section 3. Definition of "allowable medical expenses."

Section 3 adds a new subsection (q) to section 3 of the Food Stamp Act of 1977 to define "allowable medical expenses" as used to determine the excess medical expense deduction.

New subsection (q) defines "allowable medical expenses" as expenditures for (1) medical and dental care (this would include other remedial care recognized by State law), (2) hospitalization or nursing care (including hospitalization or nursing care of an individual who was a household member immediately prior to entering a hospital or nursing home), (3) prescription drugs when prescribed by a licensed practitioner authorized under State law and over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional, (4) health and hospitalization insurance policies (excluding costs of health and accident or income maintenance policies), (5) medicare coverage, (6) dentures, hearing aids, and prosthetics (including securing and maintaining a seeing eye dog), (7) eye glasses prescribed by a physician skilled in eye disease or by an optometrist, (8) reasonable costs of transportation necessary to secure medical treatment or services, and (9) maintaining an attendant, homemaker, home health aid, housekeeper, or child care services due to age, infirmity, or illness.

Section 4. Provision of information.

Section 4 adds a new subsection (f) to section 16 of the Food Stamp Act of 1977.

New section 16(f) would authorize the Secretary and State agencies to require the submission of social security numbers as a condition of eligibility.

Section 4 would permit an individual to be barred from receiving food stamps if that individual has been assigned a social security number but refuses to provide it to the

State agency. Individuals not previously assigned a social security number could also be prevented from participating in the program unless the individuals apply for and subsequently furnish social security numbers. They would be eligible to participate while waiting for the numbers to be assigned.

The income and resources of the individual disqualified for failure to provide a social security number would be counted in the same way an individual's income and resources are counted when a person is disqualified for fraud or for failure to meet the student work registration requirement during the school year. New section 16(f) will facilitate the use of computer matching techniques that compare the earnings reported by food stamp households against available wage records and thus allow States to identify more readily those households that have unreported earnings or have reported their earnings incorrectly.

In addition, States will be able to match social security numbers to prevent duplicate participation. An individual entitled to emergency service under section 11(e)(9) of the Act would be permitted to furnish a social security number after receiving his first allotment. In this way, an individual who cannot furnish his social security number, or the numbers of all members of his household, before the timeliness standard elapses for providing expedited service will not have benefits delayed simply because a social security number cannot be immediately furnished.

Section 5. Repayment for fraudulent conduct.

Section 5 amends section 6(b) of the Food Stamp Act of 1977 to allow States to collect fraud claims through a reduction of the food stamp allotment. Allotment reductions would be imposed when a recipient who had been disqualified for fraud and had not paid a fraud claim re-entered the program after the disqualification period. If the individual who committed fraud does not agree to a reduction in the household's allotment or does not agree to pay the fraud claim in cash, this amendment would allow the State agency to disqualify the individual until the person agrees to repay in cash or agrees to the allotment reduction. The income and resources of the individual disqualified for failure to repay the fraud claim would be counted in the same way an individual's income and resources are currently counted when that person is disqualified for fraud or for failure to meet the student work registration requirement during the school year.

In order to collect fraud claims, States must currently rely on voluntary repayment by the household or incur the expense of inititating a civil court action to obtain repayment. Section 6 provides a simple and efficient mechanism for collecting fraud claims and provides a penalty if repayment is not made. As a result, it is anticipated that the percentage of fraud claims collected will substantially increase without increasing the administrative costs of collecting these claims. These collection procedures should also discourage persons from committing fraud.

Section 6. State share of recoveries.

States are currently required to return to the Federal Government all funds collected from households that have repaid the value of any food stamps overissued to them. Section 6 would amend section 16(a) of the Act to allow each State to retain 50 percent of the funds it recovers or collects from persons that have committed fraud as determined in accordance with the Act. This provision will provide an incentive for States to pursue collection of fraud claims, particularly in those cases where recoupment or disqualification is ineffective because the household is ineligible.

The amendment provides that persons involved in making fraud determinations are not to benefit from the amount of such recoupments or collections. This prohibition on the use of revenues collected in this manner will assure the impartiality of officials making fraud adjudications.

Section 7. Eligibility verification.

Section 7 adds a new sentence at the end of section 4(c) of the Food Stamp Act of 1977. The new sentence would prohibit the Secretary from precluding the State agencies from implementing verification procedures in addition to those issued by the Secretary under the Act.

Section 8. Removal of authorization for appropriations ceiling for 1980 and 1981.

Section 8 removes the specific dollar appropriations ceiling for the fiscal year 1980 and 1981 food stamp program contained in section 18(a) of the Act. The language of sections 4(a) and 18(b) of the Act that conditions the level of benefits received by participating households on the availability of appropriated funds are not affected by section 9. Therefore, Congress, through the appropriations process, will continue to decide what the funding level for the program will be.

Sections 9 and 10. Group living arrangements for the disabled or blind.

Sections 9(1), (2), and (3) amend section 3(g) of the Food Stamp Act of 1977 to include within the definition of "food" meals prepared and served to blind or disabled persons in public or private nonprofit group living arrangements that are certified under regulations issued under section 1616(e) of the Social Security Act.

Section 9(4) amends section 3(i) of the Food Stamp Act of 1977 to include, and thereby make eligible for food stamp program participation, within the definition of "household" disabled or blind recipients of benefits under title II or title XVI of the Social Security Act who are residents in a public or private nonprofit group living arrangement (which serves no more than sixteen residents) that is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act.

Section 9(5) further amends section 3(i) to provide that residents of federally subsidized housing for the elderly, disabled or blind residents in public or private nonprofit groups living arrangements that are certified under regulations issued under section 1616(e) of the Social Security Act, and narcotics addicts or alcoholics who live under the supervision of a private nonprofit institution for the purpose of regular participation in a drug or alcoholic treatment program, will be considered individual households. This amendment is in accord with current program practices for the elderly and narcotics addicts and alcoholics in treatment programs.

Section 9(6) amends section 3(k) of the Food Stamp Act of 1977 to include public or private nonprofit group living arrangements that serve meals to disabled or blind residents within the definition of "retail food store".

Section 10 amends section 10 of the Food Stamp Act of 1977 to provide that public or private nonprofit group living arrangements that serve meals to disabled or blind residents may not redeem those residents' food stamps through banks. This is the same prohibition that is currently applicable to drug addiction or alcoholic treatment and rehabilitation programs.

Section 11. Effective date.

Section 11(a) provides that the provisions of the bill will take effect on the date of enactment, except that sections 2 and 3 of the bill, dealing with excess medical and shelter expense deductions for the elderly and disabled, will take effect on the first day of the first month that begins after the date of enactment.

Section 11(b) provides that sections 9 and 10, dealing with group living arrangements for the disabled and blind, will be implemented by July 1, 1980 and shall not affect the rights or liabilities of the Secretary, States, and applicant or participating households, under the Food Stamp Act of 1977 in effect on July 1, 1979, until implemented.

Mr. McGOVERN. Mr. President, I would like to add a few words about the supplemental verification provision that is incorporated in the substitute bill. It is a provision that is designed to assist States in establishing procedures that enhance USDA's nationwide verification requirements. I believe that this provision can serve as a useful tool in minimizing abuses in States that wish to improve program performance.

I commend Senator HELMS for addressing this issue.

As I envision it, States would submit its proposal for additional verification as part of the State plan of operation. The Secretary would review the procedures along with the rest of the plan for its consistency with the Food Stamp Act and the regulations.

Standards of reasonableness should apply to all proposed procedures. If a State wishes, for example, to make home visits it should be during normal working hours. They should not force applicants and recipients to make repeated trips to the food stamp office, since this would be relatively expensive for recipients and would interfere with their work or home obligations. Nor should such additional verification procedures delay the receipt of food stamps beyond the time periods specified in the statute and regulations.

I have included this amendment in the substitute because I do not believe that there is necessarily any particular magic in Washington prescriptions. The States are being held increasingly accountable for their error rates and that accountability will continue. They should therefore have some latitude and discretion in the operation of the program.

As we all know, in years gone by, there have been unfortunate occasions where verification procedures were used as a form of harassment, and as a barrier to participation. It is my sincere hope that those days are now behind us.

The Secretary is encouraged to actively monitor the implementation of this provision as part of his general oversight responsibilities. If this is done, I look forward to overall improvement in the program's operation and greater public support.

Mr. HELMS. Mr. President, I ask unanimous consent that Eddie Twilley and John Stier of Senator THURMOND'S staff be accorded the privilege of the floor during the deliberations related to S. 1309, including any rollcall votes.

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

Mr. HELMS. Mr. President, the statements which follow are in connection with the four amendments as to which Senator McGOVERN and I are in agreement.

STATE SHARE OF RECOVERIES

Mr. President, the amendment is to permit States to retain 50 percent of the value of all funds or food stamp allotments the States recover from those who have fraudulently obtained food stamps.

As a cosponsor of the Food Stamp Reform Act of 1975, the Buckley-Michel bill, I supported monetary incentives for agencies aggressive in the prosecution and investigation of food stamp fraud. I am very glad the administration shares my views in this matter. With minor technical changes, the amendment is identical to section 104 of S. 1310, a bill Senator TALMADGE introduced at the request of the administration.

Testimony before the Agriculture Committee indicates that, at present, there is not sufficient incentive for States to pursue cases of food stamp fraud. Simply put, it is not worth the time of local and State officials to follow through on food stamp fraud cases. This amendment will ease the burden that is now borne by the States.

The amendment will improve the situation of both the Federal and State Governments. States will be rewarded for successfully closing food stamp fraud cases and the great expense of food stamps for undeserving recipients will be reduced.

There is no reason to delay the implementation of this incentive for good management. It could easily save the U.S. Treasury millions of dollars before any other food stamp bill can be enacted. I hope my colleagues will see the merits of this proposal that the administration recognizes.

REPAYMENT FOR FRAUDULENT CONDUCT

Mr. President, the amendment to provide for the repayment for food stamps obtained through fraudulent conduct is identical to section 104 of S. 1310, a bill Senator TALMADGE introduced at the request of the administration. I have long supported this concept and am glad the administration has proposed such a responsible program change.

The amendment is very simple. It proprovide a meaningful vehicle for the alternatives for repayment of the value of his wrongfully acquired food stamps. The first of these alternatives would be a moderate reduction in the food stamp allotment to the household of which the defrauding person is a member. The second alternative would be cash repayment of the value of the fraudulently obtained food stamps over a reasonable period of time. The manner in which the Food and Nutrition Service has administered this program in the past clearly indicates that there would be no hardship as a result of this amendment.

The purpose of this amendment is to provide a meaningful vehicle for the recovery of the value of food stamp allotments issued as a result of recipient fraud. Its effect will be to dampen the atmosphere that is now so conducive to fraud on the part of food stamp applicants. We must stop encouraging fraud.

As my colleagues well know, the food stamp program is infamous for its fraud. The General Accounting Office has reported that 12 percent of all food stamps delivered are overissuances. Though program regulations have changed since that study, it is doubtful there has been any significant improvement. One of the pricipal reasons for this problem is the program's lack of meaningful deterrents to fraud for program applicants. This amendment strikes at this problem with compassion toward the family of the defrauding person. Bearing in mind that the discretion of the Food and Nutrition Service has always taken great care to avoid hardships among recipients, the amendment specifically requires that the schedule for repayment be reasonable. I am confident the Food and Nutrition Service will not allow hardship to result from this provision.

Mr. President, the adoption of this amendment is the very minimum of what must be done to help rid this program of its problem with fraud. The administration has submitted this program change to us and I see no reason to delay its implementation.

PROVISION OF INFORMATION STATEMENT

Mr. President, as a cosponsor of both the Food Stamp Reform Act of 1975 (the Buckley-Michel bill) and the National Food Stamp Act (the Tower-Michel bill), my record of supporting the requirement of social security numbers of food stamp applicants is well documented. This year, the administration endorsed this concept and requested that Senator TALMADGE introduce a bill which included a provision authorizing USDA and State agencies to require this identification.

With only minor technical changes, this amendment is identical to part of section 103 of the administration's bill, S. 1309. Clearly, the merits of this proposal cause its support to transcend party lines.

Specifically, the amendment authorizes USDA and State agencies that administer the food stamp program to require social security numbers of program applicants in the same manner as is now employed by HEW in administering the aid for families with dependent children (AFDC) program. In addition, these administrators are granted access to data pertaining to supplemental security income (SSI) recipients, under the same terms and conditions as the Secretary of HEW.

To prevent any misunderstanding, I would like to further explain the intent of this amendment, particularly the terms and conditions under which the Secretary and State agencies are bound. The Social Security Act states that these numbers may be used only in determining or verifying the eligibility or benefit level of an applicant or participant. Also, rights of privacy, both constitutional and statutory, stand as unencumbered limitations upon the Secretary and State agencies.

However, it is not the intent of this amendment to force the Secretary of Agriculture to blanketly adopt existing regulations of the Department of Health, Education, and Welfare in regard to the provision of social security numbers as a precondition to program eligibility. While those regulations may be useful as a guide, the Secretary of Agriculture will be free to issue regulations that take the unique aspects of the food stamp program into account or otherwise better serve to meet food stamp program objectives.

Probably the most important benefit to be gained from this amendment is that it will enable State agencies to perform verification procedures they already have the authority to do. In some States, records in programs such as AFDC and State unemployment compensation are not checked against food stamp records even though these records are available for that purpose. This amendment will simply make feasible, in some States, the sort of eligibility verification State agencies already have the authority to perform.

State administrators have reported such important verification is not done because food stamp files do not list participant's social security numbers. When this amendment is enacted, and social security numbers become available, computerized food stamp programs may check information food stamp applicants provide against information in other program files.

In so doing, agencies may determine if the applicant is indeed eligible for the program. In other words, if the applicant says he is receiving x dollars income per month, but is actually receiving more than that, this cross checking will point out the inaccurate statement of income so the level of benefits may be adjusted to the proper level. This amendment simply makes it feasible for some State agencies to check to be sure program participants are not receiving more food stamps than they are entitled to by inaccurately reporting their income.

Mr. President, a vote against this amendment is a vote to deny Government officials administering the food stamp program the ability to verify the amount of income a food stamp household receives from the Federal Government. As the program now works, the left hand does not know what the right hand is doing. If a food stamp applicant does not tell his caseworker that his household receives income from another Federal program, it will probably not be accurately revealed.

It is no secret among food stamp recipients that verification of eligibility for the program is wholly inadequate. I believe the mere ability of administrators to perform the sort of verification that is proposed herein will reduce the amount of program fraud. This amendment is as basic to verification of eligibility for food stamps as auditing is to the collection of taxes. Utilizing this authority, as administrators are certainly intended to do, will vastly increase the antifraud activities of program administrators and surely save millions of tax dollars.

Mr. President, there is no reason why we should not implement this amendment. It will enable program administrators to prevent fraud by simply employing a technique similar or identical to that used in HEW programs.

The administration has proposed this simple but effective program change. It would be senseless for us to delay its implementation.

ELIGIBILITY VERIFICATION STATEMENT

Mr. President, this one sentence amendment will permit States to issue and implement verification procedures supplemental to those required by the Secretary. The amendments will allow

State administrators to develop and use methods of verifying household eligibility for food stamps that are consistent with local needs, customs, and practices.

In hearings on the food stamp program, the Agriculture Committee has heard repeatedly from State administrators that their hands are tied in operating this program. State and local administrators realize the food stamp program is experiencing serious problems with fraud, but they can do very little about the situation in which they are now immersed. The amendment now on the floor will simply free State administrators to do what they will, consistent with constitutional and statutory rights of privacy, to check whether or not a food stamp applicant is telling the truth. This amendment will not in any way infringe upon the rights of privacy enjoyed by those who apply for food stamps. Those rights are rooted deep in our Constitution and augmented by statute.

Permit me to share two examples of how this amendment may serve to prevent fraud in the food stamp program. Congress specifically set limits on the value of assets a food stamp participant may hold in the form of vehicles not used to earn wages, such as recreational boats, mobile homes used primarily for vacation purposes, and extra cars. This amendment will enable those States that so wish to check their vehicle registration files to verify food stamp recipients do not hold such assets.

Another, and probably more useful, verification technique is home visits. Those States that so wish may direct their caseworkers to visit the homes of food stamp participants in order to verify, consistent with rights of privacy, the residency and household composition of the participating family. Such home visits are also useful in determining if the household has any undeclared assets, such as an expensive automobile or recreational boat. Furthermore, home visits may reveal that a member of the household is self-employed and receiving income he may not be reporting. I should also note that these home visits have proven to be a great assistance to the truly needy, who are sometimes homebound.

Mr. President, another point my colleagues should bear in mind while considering this amendment is that the administration has proposed administrative changes in the program that put the liability for food stamp overissuances on the States. That proposal has wide support and will probably become part of the program within a year. It is only appropriate that in anticipation of this change we permit the States that so wish to undertake efforts to better verify the eligibility of program applicants and recipients.

Under the Food Stamp Act of 1977, the States are responsible for administering this program. Adopting this amendment will simply allow them tools to do a better job of preventing fraud wherever they can.

● Mr. TALMADGE. Mr. President, I support the amendment offered by Senators McGOVERN, DOLE, MAGNUSON, and EAGLETON.

This amendment contains the provisions of S. 1309, as reported by the Committee on Agriculture, Nutrition, and Forestry, the four amendments submitted by Senator HELMS, provisions suggested by Senators STAFFORD and DOLE that would allow blind and disabled residents of State-approved group living arrangements to participate in the food stamp program, and a provision that would remove the authorization for appropriations ceilings for the program for fiscal years 1980 and 1981.

The amendments suggested by Senator HELMS will reduce the fraud and abuse in the program. They will provide the financial incentive for the States to pursue and prosecute program fraud zealously, and help improve the integrity of the program by showing the public that the Government is serious about attacking fraud and abuse.

Three of these four amendments are contained in S. 1310, the administration's request bill. While the Committee on Agriculture, Nutrition, and Forestry has not held hearings on S. 1310, I believe that the merit of the amendments is evident and that they should become a part of the Food Stamp Act as soon as possible. I see no valid purpose in delaying the adoption of these provisions.

The provisions making blind and disabled residents of State-approved group living arrangements eligible for program participation are also desirable and will not open the program to any potential abuse. These provisions will provide needed assistance to our blind and disabled citizens who are striving to become productive members of society and help bridge the gap between institutional care and self-sufficiency.

I have been an active participant in the food stamp debates in the Senate over the years and I have listened with interest to the debates of this session on the funding level for the program. We are now in July, three-quarters of the way through the fiscal year, and only recently have we been provided with a sound estimate of this fiscal year's program costs.

It is impossible to state what the right number should be for ceilings on the 1980 and 1981 programs. We simply do not know what the right economic assumptions are to build into our computations. We probably will not know that right number until we are well into the particular fiscal year.

The more significant question is: What purpose is served by establishing a ceiling on an authorization for appropriations? Such a provision can only be meaningful if it authorizes appropriations below a full funding level.

An authorization ceiling does not bind Congress unless Congress is predisposed to be bound by it. Congress has not shown a desire to reduce the cost of the food stamp program through the imposition of a ceiling that would force benefit reductions. Our recent experience with the 1979 supplemental appropriation bill attests to the Senate's commitment to full funding for the food stamp program.

The appropriations and budget processes are more than capable of determining what the level of funding should be. Under the Food Stamp Act of 1977, the program is no longer an entitlement for purposes of the Budget Act and it should be treated as any other nonentitlement program. No useful purpose is served by annually subjecting the determination of the level of funding for the food stamp program to the consideration of the Budget and Appropriations Committees and the Committee on Agriculture, Nutrition, and Forestry. We wind up voting on the same issue two, three, and conceivably four times a year. This is not the most productive use of our time and efforts.

Adoption of this amendment will promote the more thoughtful consideration of other cost-saving provisions that are currently before the committee. I commit myself and the committee to pursue vigorously these alternatives. My interest and commitment to sound program administration and insuring that only the truly needy receive food stamps have not diminished. Let us get on with consideration of substantive program changes that will serve these goals and not simply speculate on what the right number for a future year authorization ceiling should be.

The food stamp program should, of course, be subject to vigorous oversight by Congress. Under the 1977 act, the program must be reauthorized in 1981. The substitute would not change this requirement.

Moreover, the Subcommittee on Nutrition plans to continue its review of the food stamp program. The Committee on Agriculture, Nutrition, and Forestry will report to the Senate any additional needed changes in the program.●

● Mr. DOLE. Mr. President, I am pleased to join the Senator from Vermont (Mr. STAFFORD) in supporting an amendment to extend food stamp benefits to handicapped individuals living in small, public, nonprofit community living centers. Currently, these community centers fall under the definition of institutions, and because persons living in institutions are ineligible for food stamps, handicapped persons have been unable to apply for benefits, even when their income makes them eligible recipients.

Under the Stafford/Dole amendment, a disabled individual must receive either supplemental security income or social security disability income, live in a community home of 16 or fewer persons, and meet the food stamp eligibility requirements. Presently, drug addicts and alcoholics living in treatment centers are allowed to receive food stamps, even though handicapped persons in comparable living situations may not receive stamps. To my way of thinking, this inconsistency cannot be justified and should be corrected.

The major premise behind the law remains valid—I agree that residents of institutions should not be accorded food stamp benefits. However, I think some

consideration needs to be given to those situations which could not be defined as institutional living. Recently, the trend in caring for the handicapped has been to emphasize the benefits of small community living centers. These centers offer an alternative to institutionalization, and attempt to create to the fullest extent possible a normal home environment.

In these community homes, residents are expected to help with the housekeeping, gardening, shopping, and preparing of food. During the day, residents leave home for school or work, since many may hold jobs in sheltered workshops. These persons are not severely handicapped in that in many ways they can function independently or with minimal supervision and instruction, and do not require constant medical care or therapy. Handicapped persons in community homes seek medical, dental, and other health care outside of the home, and in no means do these centers resemble nursing homes or institutions. I am familiar with some community living centers in Kansas which if you did not know differently you would assume were being rented by several college students.

In every way possible, the houseparents or live-in staff try to create an average homelife, where members are given as much individual freedom and responsibility as one can manage. Before residents in a center could receive the benefits, it must be certified by the appropriate State agency or agencies under the SSI regulations. This provision will insure that a person living in a center which does not meet Federal standards will not be able to receive food stamps. In instances where the houseparent is the certified food stamp representative, that person—not the handicapped person—will be held responsible for seeing that the stamps are not misused.

Mr. President, this amendment has the support of various groups representing the disabled, and I hope it will receive the approval of the Senate. Although the Social Security Administration has no figures on how many persons live in small community centers, the National Association for Retarded Citizens and the National Association of State Mental Retardation program directors estimate that about 55,000 persons live in these types of homes. Given the information available, the congressional research services estimates that this amendment would cost in the neighborhood of $15 million. I think the cost is justified in that it will let handicapped persons receive food stamps to which they are entitled under the law, but for the definition of institution.

I hope that my colleagues will approve this measure, and extend more equitable food stamp benefits to the handicapped.●

UP AMENDMENT NO. 441

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

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 441.

Mr. HELMS. 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 9, beginning with line 4, strike out all down through line 10.

Mr. HELMS. 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. HELMS. Mr. President, the pending amendment to strike that provision of the McGovern substitute which eliminates the food stamp program cap for fiscal years 1980 and 1981 will prevent the delay of this emergency bill and simultaneously preserve a modicum of congressional control over the program.

The distinguished Senator from South Dakota proposes to eliminate the authorization ceiling on the food stamp program, and this Senator feels that is an unnecessary proposal that would surely diminish if not sacrifice congressional budgetary controls; and it may even delay this bill in conference with the House of Representatives.

Before discussing the merits of retaining an authorization limit on the food stamp program, I should like to point out some practical considerations that Senators ought to bear in mind in consideration of the pending amendment.

Unlike other provisions of this legislation, the elimination of the cap is not by any stretch of the imagination an emergency measure. There is no advantage to enacting this proposal as a part of S. 1309; that will give rise to no savings and it will not affect in any way the program's operation this year. I hope Senators will bear that in mind. Other provisions of this bill do have an immediate and practical effect. Of particular urgency is the amendment of the 1979 so-called cap. If the authorization for the 1979 supplemental appropriation is not soon adopted, benefit reductions may be initiated for all participants in the food stamp program, as Senator TALMADGE suggested in his remarks a little while ago.

Until now, S. 1309 has rightfully been referred to as "emergency legislation." I agree with that. However, the elimination of the so-called cap—which is the spending ceiling, in words all of us can understand—for 1980 and 1981, certainly changes the nature of this bill. That is something we ought to look at, and that is the purpose of my amendment. The "cap" is one of the basic elements of the Food Stamp Act of 1977; its elimination is a matter so weighty that the urgency of all other provisions is subordinated by its inclusion. I cannot overemphasize this point.

My friend from South Dakota (Mr. MCGOVERN) is a member of the Agriculture Committee. In fact, he is chairman of the Nutrition Subcommittee. He had every opportunity to raise this issue during committee considerations of the bill. There was a clear understanding in the committee as to how the 1979 supplemental authorization would be handled. The Senator did not raise the issue then for the same reason that I have not raised any substantive or controversial program changes now—this, I repeat, is emergency legislation that must be expeditiously considered.

I think my friend from South Dakota will acknowledge how uncontroversial the administrative program changes I have submitted really are. In fact, he included them as part of his substitute language for S. 1309. The amendments I had intended to offer are cosponsored by a majority of the committee. They are simple administrative changes that virtually everyone agrees are salutory and desirable improvements. There is no rationale for delaying the enactment of these consensus amendments; they are program changes which will allow State food stamp agencies to operate this program with less fraud and abuse. However, and I must emphasize this, the pending legislation is not the proper vehicle for any program change of the drastic nature Senator MCGOVERN has proposed. Certainly this is the wrong time to first raise such an important and controversial issue as elimination of the spending ceiling for the food stamp program.

I think the record will show that at every point along the way I have done the best I can to work toward expeditious consideration of this bill. Senator MCGOVERN and his staff are well aware of the full cooperative relationship between my staff and his staff, and the staffs of other members of the committee in preparing this legislation for consideration, and I believe he will attest to that fact. I have stated in the past, and will reiterate now, my commitment to work for constructive program changes. I will fully cooperate so that the Agriculture Committee will be able to report a bill in September amending the 1980 "cap," either as Senator MCGOVERN proposes here or by revising the authorization limit, if that is what the Senate chooses to do.

Frankly, however, this 11th hour effort to eliminate the cap, to eliminate the spending ceiling for the food stamp program, seems to me to be something that I had not expected in terms of the cooperative atmosphere that has prevailed.

Adding to S. 1309, the elimination of the cap for 1980 and 1981 is a move that I think most assuredly will delay this bill. The conferees who consider this matter will have to recognize that members of the House subcommittee which reported this bill considered but they rejected the proposal to eliminate the "cap," and it has not been raised again until now. Also, a proposal by the distinguished Senator from South Dakota would eliminate one of the program's basic management guidelines. Because of these two points, I anticipate that House conferees would be hard pressed to adopt Senator MCGOVERN's proposal. The resulting considerable delay in conference which will surely result from the adoption of the McGovern proposal and any benefit reductions which might result, is

a matter for which I cannot accept any responsibility.

A spending ceiling, a "cap," in the judgment of the Senator from North Carolina, is absolutely essential to prudent program management.

Mr. President, the "cap" is a key provision of the 1977 Food Stamp Act. I have said that before in these remarks and I repeat it now for the purpose of emphasis. Its presence demonstrates that the Agriculture Committee has the very clear intention of closely monitoring this program's cost. The "cap," the spending ceiling, is a reasonable sort of alarm system that would bring to our attention program costs that become inordinately high, whether it may be due to food inflation or program maladministration.

In addition, the cap stands as a clear statement of congressional intent as to what shall be the maximum spending for this program for a given fiscal year. This statement serves notice, in unmistakable terms, to Federal administrators of this program and tells them how much they can spend, in operating this program. Good administrators, faithful to the application and execution of the law, will take care to make decisions to avoid cost overruns. But what if we do not have administrators of that type? Then the responsibility rests with the Congress and specifically today with the Senate of the United States to oversee, to exercise the oversight which we are obliged to exercise, in making certain that the taxpayers' money is not spent unwisely.

Hundreds of cost affecting decisions are made in this program every year. For example, in a recent Agriculture Committee hearing, Senators learned for the first time that frequently local case workers are prohibited from accepting stamps which recipients attempt to return when they become ineligible for the program. In other words, a food stamp recipient who had been unemployed or underemployed in terms of income finally gets a job and finally achieves an income which no longer permits him to be eligible for food stamps.

So he goes down and tries to turn in the stamps. Under the existing statute, local food stamp agency cannot accept those stamps. That is an absurdity, Mr. President. Think of it: case workers cannot accept the stamps that ineligible recipients try to return.

The leverage of the cap helps compel the Food and Nutrition Service officials to close such loopholes in program regulations, thereby strengthening the Agricultural Committee's capability to conduct the oversight functions which it is obliged to do as responsible Members of the Senate and of that particular committee.

Maintaining a cap leaves as part of the 1977 Food Stamp Act and as part of the Agricultural Committee's jurisdiction a statement of how much the program shall cost in a fiscal year. It is a ceiling. I feel it is one of the best practices we have to leave in the jurisdiction of the committee the responsibility for determining maximum program costs. Do not leave it to a bunch of bureaucrats downtown. Dealing in the committee with this simple budgetary question squarely confronts all Senators with the ultimate issue: Is a certain program change worth the additional sum it would cost? That is our duty, Mr. President, to oversee this program, and to remove this "cap," to remove this spending ceiling, waves on the bureaucrats downtown and says to them, "Proceed as you wish."

The cap is an important tool in congressional control of the program. Voting it away would be a clear act of fiscal irresponsibility, in the judgment of this Senator, and would make the Senate budget process a hollow shell. Senators on the Budget Committee from Maine to Oklahoma have worked long and hard to minimize the number of so-called uncontrollable items in the Federal budget. Eliminating the food stamp cap—eliminating the spending ceiling—would be an act, it seems to me, to undermine the efforts of the Budget Committee, and it would move the Federal budget just that much farther away from the grasp of fiscal control, let alone the widespread hope of a balanced Federal budget.

As a practical matter, the so-called controls which remain after eliminating the cap would not prove meaningful at all. The supplemental appropriations for this program are all too often an after the fact sort of action. For example, this very year, through the delay of the Food and Nutrition Service, we are faced with the dubious choice of providing additional funds or closing the program in its final month of this fiscal year because the Food and Nutrition Service will have already spent all the money. The Lugar amendment, which was adopted in committee, addresses this problem but it does not solve it altogether. The cap, the spending ceiling, would reinforce the Lugar amendment in this regard and, therefore, the cap should not be abandoned.

Mr. President, I have outlined the control we would lose by eliminating the spending ceiling and the harms which would result. The "Dear Colleague" letter circulated by the distinguished Senator from South Dakota discusses at length what the elimination of the spending ceiling will not do, but I say in all respect to him that he does not hold out any advantages that would result by casting aside this bit of budgetary control.

I submit that there are none, unless one feels the funding level of this $7 billion program—and, in fact, it is more than $7 billion in cost—is not worth the attention of the Senate.

The elimination of the spending ceiling on the food stamp program is probably the clearest question of fiscal responsibility the Senate will face this year.

Certainly, it is one that the taxpayers back home will understand. There are no gray areas through which a negative vote—a vote against the pending amendment—may be excused. This amendment is to block a proposal to throw away a congressional budgetary control and essential program management tool—without even the benefit of a single hearing or a single mention of the matter in committee. The Helms amendment now pending, the amendment to the McGovern substitute, would stop this ill-conceived proposal from being attached to what is purely emergency legislation. I am told by the distinguished Senator from South Dakota that this legislation must be passed before the August recess.

I say again that unless this proposal to eliminate the cap is removed, the enactment of this legislation before the August recess is placed in jeopardy.

In short—and I say again that these remarks are made with all due respect for my friend from South Dakota—this is the wrong vehicle for the wrong proposal. The pending amendment to strike the elimination of the cap for 1980 and 1981 from the McGovern substitute should be adopted.

We cannot afford to push aside our responsibility for congressional budgetary control.

Mr. HAYAKAWA. Mr. President, my distinguished colleague from North Carolina has offered an amendment to preserve an instrument of congressional budgetary control. I endorse his amendment to strike from the McGovern substitute the language which would eliminate food stamp authorization limits for fiscal years 1980 and 1981.

When this body approved a cap on food stamp programs 2 years ago, we did so without malice for the recipients of the program. We adopted this integral part of the 1977 Food Stamp Act in the interest of efficiency and sound management and not as an instrument directed against the nutrition or the well-being of the recipients of the program. If there were a need for fiscal responsibility then, when the program cost much less than $6 billion annually, we certainly have an even greater need now as we face an annual cost of more than $8 billion next year.

The Senator from North Carolina has already detailed reasons for retaining a cap on this program. I can only implore the Senate not to disarm those of us charged with oversight of this program. There is no Federal program in greater need of congressional scrutiny and budgetary restraint.

I am compelled to ask: Why should we eliminate the cap—why should we cast aside this important congressional control? The only response I have been given is that it prevents Congress from being troubled with the funding level of this program. I hope my colleagues agree that the funding level of an $8 billion program is worthy of our attention.

It is really a depreciation of our functions to say that we should not be troubled with the funding level of this program. That is what we are here for, to be troubled with the funding levels of this and every program. When we are talking about an $8 billion program, it is certainly worthy of our attention.

I offer my complete support to this amendment being offered by the Senator from North Carolina. The funding level of this program is over one-third of the entire budget of the U.S. Department of Agriculture. To oppose this amendment is like saying that we consider this to be an issue too insignificant for us to trouble with.

In addition, Mr. President, the elimina-

tion of this integral part of the program is a hastily drawn proposal that has not even been considered in committee and has been flatly rejected in the House. It is not appropriate for the chair of the subcommittee of jurisdiction to raise this proposal now for the first time. There is no advantage in adopting this proposal now, particularly since all of the Agriculture Committee seems to be pledged to the expeditious consideration of the amendment of the 1980 "cap." The practical result of attaching to this bill language to eliminate the "cap" means delay of this emergency legislation in conference.

I ask that my colleagues join me in the fiscally responsible act of voting for this amendment.

The difficulty, Mr. President, is that the food stamp program is one of the hardest programs we have to cut back or to vote against and even to supervise. Free spending for food stamps can be worth many votes nowadays, especially for those of us facing an election. It takes courage to draw the line, to say, "No more money for this program." But I call attention to the fact that it does not take as much courage as it used to, because we in California have passed proposition 13, which is a very clear indication to all of us from all States that there is a limit to the endurance of the taxpayers. There is a limit to their patience, there is a limit to their pocketbooks. In the light of this proposition 13 and this slight sense of fiscal responsibility that has permeated this body since passage of that measure, I believe we have established as a fact that much of the public does demand some kind of fiscal responsibility now to a degree that they were not demanding it a couple of years ago.

We have established a very liberal budget, with billions of dollars for this program. I am asking, as the taxpayers are going to be asking, is this not enough? When are my colleagues going to begin to support the voters of this country, who are sick and tired of unlimited spending for welfare programs?

My distinguished colleague from South Dakota comes from an agrarian State, where, perhaps, he does not have the problems with food stamps that we have in California. I must recall to the Senators' minds that California is, in fact, the home of the flower children, the hippie counterculture, and the entire development of new kinds of lifestyles which are opposed to the work ethic, which are opposed to work itself, which is hedonistic in the extreme, which is financially irresponsible. In that counterculture situation, tens of thousands of young men and women, perhaps hundreds of thousands, from well-to-do families are dropping out. They have no career ambitions. They get allowances for families and they stretch out their allowances by getting food stamps. This is true of college students and also true of college dropouts.

Up in northern California, Mr. President, in Sonoma County, the Russian River area—these are areas that I am very, very well familiar with—the woods are thick with hippie communes, which exist on food stamps. These are young people from families of considerable affluence. If they had not had affluent families, they would not be in revolt against affluence itself. They are also in revolt against work. They drop out of the work market, they drop out of school, deliberately, because they have this whole food stamp program to subsist on. Why work, then, when food stamps are so easy to get and, therefore, it becomes so much easier to tune in, turn on, and drop out?

I say that it is a very difficult program to administer because, for example, aliens are not entitled to food stamps. But bureaucratic regulations hinder officials from ever making a serious inquiry into the citizenship status of applicants.

In our State, we have an extraordinary number of illegal aliens. How many of them are getting food stamps? We do not know. But we cannot even find out, or turn them down, because our officials are prevented from asking the kind of questions that will reveal whether or not they are truly entitled to them. We cannot even find out whether they are citizens. We are just sort of automatically issuing them.

Mr. President, this is a program so tremendously subject to abuse, so tremendously subject to supporting the voluntary indigent, and supporting even the well-to-do, so that I am told, for example, in Sebastopol, Calif., there is an enormous traffic in Perrier water paid for by food stamps.

Now, Perrier water may be classified as food in the categorization of a grocery store, and also in that of the food stamp programs, but it is not a life necessity, as bread, cheese, milk, and margarine. But here they are selling cases and cases of Perrier water for food stamps.

This is the sort of thing that happens constantly, and there is no check on it.

To put a cap on this program is to tell the administrators, "For goodness sake, be careful of whom you issue these to," to make some rules to inquire into the financial status, the family status, the connections, the work training, et cetera, and the background of these people who ask for them, instead of handing them out right and left with the greatest generosity.

We are confronted, Mr. President, with the fact that for many administrators of the food stamp program, they like to have more and more clients because that increases the importance of their jobs.

Is it certainly desirable for a food stamp office to say, "We have 10,000 clients," instead of only 5,000. It looks as if, given no cap, they will expand this program indefinitely in order that their office will have not 10,000, but 20,000 clients, so they can enlarge their office, ask for big quarters, high salaries, and go farther up in the Government service and increase their own sense of importance.

To put a cap then is an elementary step in the establishing of some kind of fiscal responsibility.

I deeply respect the humanitarianism and the concern for his fellow human beings of the distinguished Senator from South Dakota in asking the cap be removed. I must take issue with him, perhaps because we come from different States, different backgrounds, and different perceptions on this.

But I do say that we have in common a voting public, a taxpaying public, that has become increasingly impatient with our constantly expanding budget, and here is a place where we can at least draw a line.

I thank the Chair.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I have listened very carefully to my distinguished colleagues and, certainly, I think there is merit on each side of the argument.

But I am supporting the amendment in the nature of a substitute, which the Senator from South Dakota has proposed to S. 1309.

The substitute not only incorporates the provisions which the Senate Agriculture Committee agreed to, but it also includes four very important amendments offered by the Senator from North Carolina (Mr. HELMS) as well as an amendment which the Senator from Vermont (Mr. STAFFORD), and myself have worked on. And, not least of all, the substitute would repeal the food stamp cap beginning in fiscal year 1980.

I realize that taken altogether these are far reaching changes, and in my opinion would make for an improved food stamp program. Before joining as a cosponsor to the substitute. I gave the matter considerable attention, and decided that this approach would be the most sensible one to take at this time.

To be honest, I first said I would not join in this substitute which includes repeal of the food stamp cap beginning in fiscal year 1980. Following that decision, I reconsidered after focusing on what type of program this is, what kind of changes have been made, and what will be happening if we have field hearings across the country in the food stamp program. I decided finally that we should remove the cap.

THE CAP

I am not pleased nor proud of the fact that the food stamp program has grown so considerably in the last several years. It is not a comforting fact to realize that millions and millions of a nation's citizens are in need of food. Of all the basic necessities a person faces, the need for food is perhaps the most fundamental. However, after recognizing that America did have a considerable problem with malnutrition and hunger among its citizens, I am pleased that the Congress has acted to solve the problem. Having created the food stamp program in an attempt to solve or reduce the problem of hunger in America, I think we should take pride that it has worked as effectively as it has. A recent study by the Field Foundation shows that over the last 10 years the incidence of hunger has been greatly reduced, and in some pockets of poverty, even eliminated. We still have poor citizens and we still have many problems related to poverty to face, but we are seeing the results of the

huge sums of money we have spent on the war against hunger. I offer these remarks to assure my colleagues that our past efforts in the Congress have not been in vain.

I repeat, as I do quite frequently, that prior to the food stamp program we had what we called a commodity program in this country where commodities such as flour, peanut butter, and other commodities went directly to the poor.

It is my recollection that at one time commodities served about 9 million Americans. I say that so the record will reflect we did not start off with a vast new food program, that in many cases food stamps replaced the commodities—in fact, in all cases now food stamps have replaced commodities.

I think some Americans who look at the food stamp program and look at its cost have justifiable concern over what happened. There is a program and it has grown rapidly.

Reforms have been made by the Senator from South Dakota, by the Senator from California, the Senator from North Carolina, the Senator from Kansas, and others. But it is still a large program. It is a costly program. It addresses an important problem in this country, and that is a right to eat and a right to have food.

There are always going to be some exceptions to the rules some abuses and some horror stories. In any program that has a million participants, or 15 million, or 19 million, we will be able to find some people who have abused the program. We will find some cases where they should not have been participating at all in the program.

We have attempted to address those abuses and I believe in most cases we have done so.

But with the field hearings that will be conducted by the chairman and others on the Agriculture Committee, it is my hope that we can tighten up the program more. We should—it is costing the taxpayers of America billions of dollars.

So no one suggests that we should throw open the doors, take off the cap, and let the sky be the limit on the food stamp program. That is not what we want or what would happen.

Mr. President, at the time the spending cap was imposed on the authorization level, there was a realization that it did not allow much flexibility; that if inflation and unemployment were held down, the cap would be fine. But I believe everyone understands that has not been the case. Inflation has soared; it is now doubledigit. It affects the poor as well as the rich. The unemployment rate has not dropped, and there is some indication that it may start to increase.

So what we have here are victims of inflation and victims of a sagging economy—millions of people on food stamps who suddenly were faced with a reduction in benefits.

Through the proper process—the authorization process and the appropriations process—we are about to add $620 million in authority. But this, in essence, like an entitlement program in that Congress has determined what the benefits should be and how they should be distributed. We should make certain that the American people receive those benefits if they are qualified and eligible.

There is some criticism—I suppose a great deal of criticism—of the fact that we eliminated the purchase requirement, which, in my estimation, should have been done long, long ago. We are bringing into the program people who could not put up the front end money to buy stamps, people who have been eligible for stamps right down the line, but who did not have that money.

When we eliminated the purchase requirement, people were added to the food stamp rolls. A great portion of those who were added come from rural areas in this country, where they do not have the urban distribution centers or the outreach programs. Now we are finding that many rural poor, for the first time, are able to take advantage of the food stamp program.

I think it is well to put to rest another myth about the food stamp program, which is that rich people and middle-income Americans benefit from the food stamp program. I cannot vouch for all the figures coming from the U.S. Department of Agriculture, but according to their figures, 52 percent of the food stamp households have monthly incomes of less than $300. Eighty-five percent of the households have incomes less than $500 a month. Of the remainder, less than 4 percent of the households have monthly incomes above $750 a month. In those families, none contains fewer than four persons. At the top end of the scale, one-half of 1 percent have incomes above $1,000 a month, and these households consist of at least seven or more persons.

If anyone in this Chamber or anyone else who may be listening believes that he can live on that income—a family of four, a family of seven or more—I think he should tell us how to do it.

More than one-fifth of the food stamp households are headed by an elderly person. The largest group of participants is white, and 64 percent of the households have no liquid assets.

Furthermore, the majority of adult food stamp recipients are employed full time or unable to work because of disability or the responsibility to care for children or invalid family members.

To reiterate, three-fourths of the food stamp families have gross incomes below $4,800 a year.

The Bureau of Labor Statistics reported that in 1978, four-person urban families needed a yearly income of $11,546 to live on a low budget.

So the Senator from Kansas just wants to reinforce what has been said on this floor by many others, many times. We are talking about poor Americans—white, black, Hispanic, across-the-board—in my State of Kansas, in the State of New York, in the State of California.

It is not a perfect program. There always will be someone taking advantage of any program in the public sector or the private sector.

In the view of this Senator, there has been some lack of urgency on the part of the Food and Nutrition Service to implement some of the reforms. That has added to cost, as well as to the dissatisfaction of those who supported the program, such as the distinguished Senator from California (Mr. HAYAKAWA). It has added to the frustration of others who do not want to see waste in the program, such as the distinguished ranking minority member of the Committee on Agriculture, the Senator from North Carolina (Mr. HELMS).

It does not seem to this Senator that, on balance, the spending restraint will be removed. It does not mean Congress is going to abdicate responsibility. The Senator from South Dakota pointed that out very clearly in his statement about an hour ago. We still have the authorization process. We still have the budget process. We still have the appropriations process. We still have Congress. Now and then, Congress has some influence on what happens so far as policy is concerned.

The conference report of the Budget Committee stated the following, in the RECORD of May 23, 1979, on page 12404:

> The conference agreement would allow the current law spending ceiling on the food stamps program to be raised or eliminated to avoid a reduction in the level of benefits provided under current program guidelines.

So there is no conflict with the budget.

Mr. McGOVERN. Mr. President, will the Senator yield on that point?

Mr. DOLE. I yield.

Mr. McGOVERN. The Senator is absolutely right in the point he makes, that lifting the cap in no way violates the budget process at all. As the Senator knows, there is no such authorization cap on most Federal programs. The cap becomes the appropriations figure, which gives Congress ample authority to control the size of this program.

Beyond that is the budget process, as the Senator has said, that we have established here in the Senate and in Congress.

There came to my attention a memorandum from the Senate Budget Committee staff that Senator MUSKIE had written just a few days ago on July 19. Quoting from that, I read:

> Removal of the cap for fiscal year 1980 and fiscal year 1981 is consistent with the First Budget Resolution assumptions.

Then the Budget Committee staff memorandum goes on to say:

> Lifting the cap for fiscal year 1980 and fiscal year 1981 would not change the food stamp program into an entitlement program. The program would still be subject to the appropriations process and benefit amounts would still be subject to the level of appropriations.

So we really have a double check on the program in that we have the budget resolution process plus appropriations.

I think it is very important for Senators to understand that we are not, in a sense, removing any spending limits from this program that are not duly protected both by the budget process and by the Appropriations Committee process.

In a sense, we are simply proposing

that the food stamp program be treated the same as other Federal programs.

The Senator knows that the program expires in fiscal year 1981, so this action today would put this program on the same footing as other Federal programs.

Mr. DOLE. Mr. President, I appreciate the emphasis added by the distinguished Senator from South Dakota who unquestionably has done more in this area than all of us combined, and the results of which, I might indicate, were well illustrated in the Field Foundation report I referred to earlier.

We are not abdicating any responsibility.

I remember, I think 4 years ago, in this Chamber the distinguished Senator from Maine, the chairman of the Budget Committee, brought about for the first time, in my memory, a reduction in the school lunch program because it exceeded the budget.

So I just suggest there are plenty of checks and balances. This is not an effort to let a program get out of hand. In fact, all the efforts are in the other direction.

The amendments offered by the distinguished Senator from North Carolina are all sound. They should be enacted and probably should have been enacted years ago. They will be enacted today.

The amendment of the distinguished Senator from Vermont is an amendment that should be adopted and will be today.

I think there is enough pressure about the operation of the program coming from those who support it consistently, those who oppose it consistently, and from some who have mixed views about the program—all concerned about the administration. We want people who should be served to be served. We want those who should not be served to be eliminated.

And I think that is the thrust of the substitute. It does more than just eliminate the cap. It takes another step forward. In fact, it is another step forward by Congress.

Finally, I suggest that I have been asked, as maybe others have been asked, by the distinguished colleague in the other body, Congressman KELLY, to allow elderly recipients to claim as a food stamp deduction all medical expenses exceeding $10 monthly.

Prior to the 1977 amendments, all recipients could claim medical expenses as a deduction when figuring income. By allowing this deduction, some families with high incomes were able to receive food stamps.

But, of course, we changed all that. That was another reform. We brought about a standard deduction to avoid some of this.

The cost of the so-called Kelly amendment will add some $36 million in cost above the Stone amendment, which was adopted by the committee. The Stone amendment lets the elderly and disabled claim medical expenses above $35 monthly. The Kelly amendment by itself would cost in the neighborhood of $63 million.

The Budget Committee has not approved the additional money. But, the Kelly amendment will be in the conference. It seems to me that it is better to work it out in conference than to offer that amendment here knowing full well that it will probably be opposed by the Budget Committee.

So I appreciate the efforts of the distinguished Congressman calling this to our attention, and I hope he will have support in the conference committee.

I maintain that food stamp recipients are poor, hard working, and hit exceptionally hard by our faltering economy. For these reasons I feel that we should approve increasing the authorization level for the remainder of fiscal year 1979 by $620 million and remove the cap entirely for the following years.

We have seen the difficulty in accurately projecting the unemployment rate and cost of food, both of which have a direct impact on the cost of the food stamp program. By supporting the lifting of the cap, I still believe that the Congress should maintain close supervision over the program. I believe that this will be provided through our authorization, budget, and appropriation processes and think that this will give us adequate control over the cost, just as it does for other Government spending programs.

OTHER PROVISIONS

Also included in this substitute are four amendments proposed by Senators HELMS, COCHRAN, JEPSEN, HAYAKAWA, and myself. These amendments are designed to provide better administration of the program, and to give States more incentives for correcting fraud. Food stamp recipients who have fraudulently received food stamps will have to repay the Government for benefits wrongly received. All of the amendments proposed by the Senator from North Carolina are sound, and probably should have been enacted years ago.

Also included in the substitute is a Stafford/Dole amendment which is designed to allow more handicapped persons to participate in the program. Our amendment would expend food stamp benefits to handicapped persons who live in small, public, nonprofit community centers, and who receive either supplemental security income or social security disability insurance. In addition, these persons must meet all of the other income eligibility requirements. Under present food stamp law, drug addicts and alcoholics are allowed to receive benefits if they live in treatment centers. However, the disabled have no such provisions.

Our amendment would correct this inconsistency by recognizing that small community living centers of 16 persons or less should be defined as a home rather than an institution, and that residents should be allowed to apply for food stamps. I think that this is a reasonable amendment, and am glad that it is included in the substitute.

CONCLUSION

I realize that the issue under consideration today is a controversial one and one that has been discussed many times before. Depending on one's position, food stamp recipients are either decent, hard-working poor persons struggling to get ahead, but to no fault of theirs never made it, or recipients are lazy free-loaders milking the Government for all they can get. I am sure that in any State and in any county you can find both types of persons on the rolls, which I suppose would show that there is some truth in what we each say. However, I would say that the role of Congress would be to devise a fair, equitable program by which to distribute food benefits to those qualified to receive them. I feel that this substitute makes defensible changes in the program and is the best approach to take at this time. It will allow for food benefits to be continued to those who qualify for them; it will improve the administration of the program; and it will take action against those misusing the program. I hope this substitute will be agreed to.

Mr. STAFFORD. Mr. President, included in the McGovern/Dole substitute amendment to S. 1309 is section 9 entitled "Group Living Arrangements for the Disabled or Blind." I am grateful to my distinguished colleagues, Senators MCGOVERN, DOLE, MAGNUSON, and EAGLETON for including this section within their substitute.

This section of the amendment provides that recipients of SSI or SSDI, residing in group living arrangements, of 16 persons or less be eligible to receive food stamps.

Under existing food stamp rules, persons living in institutions are barred from participation, with the exception of the elderly in Federal housing projects and drug addicts and alcoholics in State-approved private nonprofit treatment programs. Community residences or group homes are classified as institutions for food stamp purposes because services other than room and board are provided and because residents often are not entirely responsible for purchasing and preparing their own food.

However, disabled persons living independently or as boarders or roomers are eligible for food stamps. In addition, drug addicts and alcoholics in treatment programs are eligible under special provisions of the Food Stamp Act.

For disabled recipients of SSI or SSDI, this section of the substitute amendment removes the words "group living arrangements" from the classification as institutions as long as they are small (16 persons or less) nonmedicaid institutions, and certified by States under standards required by sections 1616(e) of the Social Security Act. This means that a disabled person as defined by the Social Security Act who meets other food stamp eligibility tests such as income, assets and work registration would not be barred from the program simply because his or her disability had forced them into a State-approved, nonmedical living arrangement as part of the deinstitutionalization process. These are persons who have their own income sources and living independently would be eligible for food stamps except for their disability.

In addition, the Department of Agriculture and State agency(s) would be allowed to deal with these living arrange-

ments in the same way they deal with treatment programs for drug addicts and alcoholics if the group residence actually operated as the meal provider rather than residents purchasing food and helping to prepare their own meals.

In group living arrangements, as with treatment programs, they would be prohibited from depositing food stamps in a bank and would have to use them in grocery stores for food to prevent possible misuse of food stamp aid.

Mr. President, I ask that my colleagues join with us in this effort to remove this discriminatory provision from the Food Stamp Act. I ask my fellow Senators to join with Senator DOLE and I to provide that qualified recipients of SSI and SSDI residing in group living arrangements be granted the same privileges of receiving food stamps as accorded drug addicts and alcoholics under the Food Stamp Act.

Mr. McGOVERN. Mr. President, I commend the Senator from Vermont (Mr. STAFFORD) and Senator DOLE, who have offered this amendment to help the elderly deal with one of the most important nutritional problems in the country.

I believe it is a wise and constructive amendment, and I commend the Senator from Vermont for bringing it to the attention of the committee so that it could be included in the measure now pending before the Senate.

The PRESIDING OFFICER (Mr. BENTSEN). The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President. I rise today in support of the substitute amendment to S. 1309. The substitute contains all of the provisions of the bill reported by the Agriculture Committee; the four amendments offered by Senators HELMS, DOLE, COCHRAN, HAYAKAWA and JEPSEN; a Stafford-Dole amendment to extend benefits to handicapped persons living in community living centers and an amendment repealing the food stamp authorization ceiling for fiscal years 1980 and 1981. Mr. President, it is my understanding that the substitute amendment has the support of Chairman TALMADGE.

I would ask my colleagues to consider the importance and merits of the particular provisions in the bill sponsored by Senator STONE, which I was pleased to cosponsor. These provisions allow for greater medical and shelter deductions to the elderly and disabled in determining eligibility for and levels of food stamp benefits, and they are crucial in insuring adequate food stamp benefits to thousands of people who need them.

Mr. President, as you may recall, the 1977 Food Stamp Act which went into effect 4 months ago drastically reduced allowable deductions for housing and medical care costs. I believe the congressional intent in 1977 was that such changes would help direct benefits to the people who need them most. I do not believe that it was congressional intent to reduce benefits for the elderly and disabled to the extent we now find occurring. Many of our most needy citizens have reported that their food stamp benefits have been cut by 50 percent or more, and the hearings of the Senate Special Committee on Aging bear that out. At a time when medical care and shelter costs are enormous yet continue to skyrocket, the current limits on deductions for these expenses are clearly too low. Indeed, at a time when food prices are increasing at up to 20 percent annually, we should certainly not allow actual cuts in food stamp benefits for the elderly and disabled. The need for the Stone amendment is obvious and other provisions of the substitute amendment are clear and I urge my colleagues to join me in supporting it.

Mr. President, it has been brought to my attention that some retail bakeries are being denied authorization to accept food stamps under the authority of the 50-percent staple-food-sales rule enacted in the Food Stamp Act of 1977—despite the intent of the law that bakeries selling bread not be excluded.

Retail bakeries selling bread, but also offering other bakery products—are, in some cases, being denied authorization to accept food stamps or having their authorization withdrawn because over 50 percent of their sales are not bread alone.

After investigation, I have found that these denials appear to have been erroneous and contrary to the Department of Agriculture's rules for authorizing retail outlets for food stamp participation.

The Department's policy is, in fact, fair and evenhanded and carries out the intent of the law. The problem is that Food and Nutrition Service field officers are, in some cases, not carrying out the Department's policy correctly.

In order to illustrate the matter, I shall have printed in the RECORD a letter from the Retail Bakers of America and excerpts from the Department of Agriculture's regulations and instructions governing the authorization of retail outlets for food stamp participation.

As a result, I had intended to introduce an amendment that would have specified, in the act, that bakeries selling bread along with other bakery products should be authorized for food stamp participation. This amendment would not have changed current Department policies. Rather, it would have put them directly into the act in order to encourage the Department to insure that existing policies on authorizing retail bakeries are carried out.

The intent of the 50-percent staple-food-sales rule added in the 1977 act was not to exclude bakeries selling bread along with other bakery goods and my amendment would merely have made that intent clear. Donut and pastry shops that specialize in sweet baked goods and which do not do a substantial business in staple foods such as bread are excluded.

However, since this is a case of simply carrying out the clear intent of the existing law, I ask my friend, the distinguished Senator from South Dakota, if he concurs in my understanding of the intent of the law in this regard and the need to fully and consistently carry out the Department's rules.

Mr. President, I ask unanimous consent that there be printed in the RECORD a letter from the Retail Bakers of America and excerpts from the Department of Agriculture regulation and instructions governing the authorization of retail outlets for food stamp participation.

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

RETAIL BAKERS OF AMERICA,
Hyattsville, Md., June 27, 1979.

Hon. CARL LEVIN,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR LEVIN: One of the questions you asked was whether our members were having any particular problems with one or other of the federal agencies. We indicated that as a matter of fact a number of retail bakeries from different states were having trouble with the Food and Nutrition Service over food stamps. These bakeries had recently been denied authorization to participate in the Food Stamp Program on the ground that they did not sell enough bread, although the regulations had been amended to include bread and breadstuffs (i.e. any grain, flour or other cereal product) so as to make it clear that bakeries were not to be excluded from the program merely on the basis of how much bread alone they sold.

You asked me to send you details and supporting documentation of these denials, which I promised to do as soon as I could. This letter is in response to your request.

In brief, the enclosed material shows the following. Although the Food Stamp Act itself mentions only bread specifically as an example of staple food, the House Report mentions bread and breadstuffs and explicitly states that retail bakeries are a type of retail food store which will normally be considered eligible to participate in the program. Nevertheless, field officers of the Food and Nutrition Service routinely denied retail bakeries' request for authorization to accept food stamps or withdrew previously granted authorization, as the copies of letters to several bakers show. As a result, at the urging of our association, the definition of staple food contained in the FNS regulations governing the program was modified to include bread and breadstuffs and the accompanying explanatory material made it clear that bakeries which sold bread were to be authorized to participate in the program.

Again, despite these clear, explicit, final regulations that bakeries which sold bread are to be authorized, field officials of FNS continue to ignore them and to deny or withdraw authorization to accept food stamps from bakeries on the ground that at least half their annual volume of sales is not of bread and bread alone The copies of the letters from Daniel's Bakery and Dainty Bakery bear this out. In addition, I was informed by telephone that Diener's Bakery in North Carolina had again been denied authorization after the amended regulations had become final (although he later was granted authorization) by a Ms. Paula Kernin of the Greenville, North Carolina FNS office; and that Harvey's Bakery in Valdosta, Georgia had also had its application for continued authorization turned down. As a result, we have written to Representative Frederick Richmond asking him to sponsor an amendment to the Food Stamp Act (copy enclosed).

I emphasize that our people have had problems only with FNS officers in the field; the Washington office has been very coop-

erative. In fact, Mr. Dan Woodhead with the Retail Food Store Branch of FNS here in Washington, had gone out of his way to be helpful.

Senator Levin, we very much appreciate your interest in our problem and are grateful for any help you give us.

If there is any other information you need from us, please call me. Again, thank you for your help.

Respectfully,

GERARD P. PANARO,
Associate General Counsel.

TITLE 7—AGRICULTURE: CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

FOOD STAMP PROGRAM

Agency: Food and Nutrition Service, USDA.

Action: Final rule.

Summary: This rule tightens the criteria for authorizing retailers and wholesalers to accept and redeem food stamps, sets forth criteria for determining periods of disqualification for retailers and wholesalers who have been found to have violated food stamp program regulations, allows the Food and Nutrition Service (FNS) to substitute a civil criteria for determining periods of disqualition for a retailer or wholesaler if a disqualification would cause hardship to participating households, details the method for assessing a civil money penalty and requires retailers to provide cash change in amounts less than $1 in food stamp transactions. These regulations implement the Food Stamp Act of 1977.

Effective date: The amendments to parts 270 and 271, and the new parts 278 and 279 take effect on January 1, 1979.

For further information contact: Nancy Snyder, Deputy Administrator, Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250, 202-447-8982.

Supplementary information: On May 2, 1978, the Department published a proposed rule (43 FR 18874-18958) to amend parts 271, 272, 273, and 274 of the food stamp program regulations and to add new parts 278, 279, and 282. As noted in the preamble to those proposed regulations the ". . . existing provisions (current regulations) regarding retailer/wholesaler activities have generally been considered successful (and therefore) major portions of this (proposed) section are a restatement of existing regulations, instructions of procedures." (43 FR at 18903.) Almost no comments were received on those existing regulations and provisions as republished in the proposal. Moreover, as compared to the other parts, relatively few comments were received regarding the retailer and wholesaler proposals. These comments led to few changes in the proposed retailer-wholesaler rules.

Rather than delay these final rules to combine them in a single massive publication likely to be issued later this month, and to allow firms sufficient time to plan for implementation of these regulations, the Department has decided to publish parts 278, 279, and those portions of part 271 related to parts 278 and 279, before publishing the remaining rules. A number of wording changes have been made to improve clarity. No specific mention of these changes will be made in this summary. The significant changes are discussed as follows:

Staple Foods. Three commenters were concerned that the list of staple foods found in section 3(k) of the Food Stamp Act of 1977 (Act) mentions no bakery product but bread and that few bakeries have more than 50 percent bread sales.[1] As pointed out in those comments,[2] the proposed regulations might be interpreted to exclude many bakeries despite the clear expression found in the House Report[3] that bakeries were to be authorized if they sold bread and breadstuffs which met the 50 percent staple foods test found in section 3(k) of the Act. The House Report stated that:

"To satisfy the 50 percent test, the store * * * should offer a variety of such staples, meaning a spectrum of * * * breadstuffs * * *, since the Committee has no reason to foreclose * * * bakeries * * * from being able to accept food stamps in trade."

Thus, to insure uniform administration of this requirement, in accord with the clear intent of the House Report, the Department has modified the list of staple foods to include "bread and breadstuffs." However, this change is not intended to permit the participation of pastry and donut shops that do not sell bread. The House Report noted that " * * * the intent of the Committee is * * * to eliminate without question certain stores, such as * * * specialty donut stores not selling other bakery or bread products * * * . This intent would be effectuated by authorizing pastry, donut or bakery shops only if a line of basic bread products (breads and rolls) is customarily sold in addition to the sales of other staple foods. This same rationale extends to, for example, shops which only sell ice cream. These shops would not be authorized unless they customarily sold other dairy products in addition to ice cream.[4]

Delegation of authority. Approval or denial of authorization of retail or wholesale stores to accept food stamps is currently delegated to the officers in charge—OIC's of FNS field offices. Although no comments were received on this point, the Department has decided, for the sake of clarity, to specify when this authority lies with the OIC. The final rule is not intended to represent a change in current policy.

Approval of retailers and wholesalers. A number of commenters expressed fear that the 50 percent staple foods requirement would exclude many small grocery stores, especially rural grocery stores and convenience stores, from participation in the program.[5] The Department believes that these fears arise largely from misunderstanding of that statutory requirement. According to sections 3 (g) and (k) of the Act, staple food sales must be more than 50 percent of the store's eligible food sales only—not of the store's gross sales (their total sales of food and nonfood items). Sales of nonfood items, alcoholic beverages, hot food prepared for immediate consumption, newspapers, sundries, and general merchandise are not to be counted in determining the total food sales volume which is to be compared to the amount of staple food sales. The Department intends to implement this statutory requirement by asking retailers to estimate what percentage of their total food sales are comprised of staple food items on a simple self-declaration form. As noted in the preamble to the proposal, "[t]he House Report explains that retailers should not be required to set up any elaborate system of recordkeeping to prove to FNS that sales of staple foods, warranted authorization." (43 FR at 18903). As provided in the Act, any retailer which has food sales that are 50 percent or less staple foods will not be eligible for participation in the program. The final regulatory language regarding this point is merely designed to clarify what was intended in the proposed language.

The section on authorization of wholesalers has been changed to allow income (SSI) recipients, and their spouses. It also includes senior citizens' centers, apartment buildings occupied primarily by elderly persons or SSI recipients, and their spouses, public or private nonprofit establishments (eating or otherwise) that feed elderly persons or SSI recipients, and their spouses, and federally subsidized housing for the elderly at which meals are prepared for and served to the residents. It also includes private establishments that contract with an appropriate State or local agency to offer meals at concessional prices to elderly persons or SSI recipients, and their spouses.

"Coupon" means any coupon, stamp, or type of certificate provided pursuant to the provisions of this subchapter for the purchase of eligible food.

"Drug addiction or alcoholic treatment and rehabilitation program" means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private nonprofit organization or institution which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholics and drug addicts pursuant to Pub. L. 91-616, "Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act of 1970" and Pub. L. 92-255, "Drug Abuse Office and Treatment Act of 1972" as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics.

"Elderly person" means a person 60 years of age or older.

"Eligible food" means: (1) Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption; (2) seeds and plants to grow foods for the personal consumption of eligible households; (3) meals prepared and delivered by an authorized meal delivery service, or served by a communal dining facility for the elderly or S91 households, to households eligible to use coupons for delivered meals or communal dining; (4) meals prepared and served by an authorized drug addict or alcoholic treatment and rehabilitation center to households eligible to use coupons for those meals; and (5) in the case of certain eligible households living in areas of Alaska where access to food stores is extremely difficult and the households rely on hunting and fishing for subsistence, equipment for the purpose of procuring food for eligible households, including nets, lines, hooks, fishing rods, harpoons, knives, and other equipment necessary for subsistence hunting and fishing but not equipment for the purpose of transportation, clothing, or shelter nor firearms, ammunition, or other explosives.

"Meal delivery service" means a political subdivision, a private nonprofit organization, or a private establishment with which a State or local agency has contracted for the preparation and delivery of meals at concessional prices to elderly persons, and their spouses, and to the physically or mentally handicapped and persons otherwise disabled, and their spouses, such that they are unable to adequately prepare all of their meals.

"Nonprofit cooperative food purchasing venture" means any private nonprofit association of consumers whose members pool their resources to buy food.

"Retail foodstore" means: (1) An establishment or recognized department of an establishment, or a house-to-house trade route, whose eligible food sales volume is more than 50 percent staple food items for home preparation and consumption; (2) public or private communal dining facilities and meal delivery services and drug addict or alcoholic treatment and rehabilitation programs; (3) any store selling equipment for procuring food by hunting and fishing to eligible households in Alaska, as specified in the definition of eligible food; (4) any private nonprofit cooperative food purchasing venture, including those whose members pay for food prior to receipt of the food; and (5) a farmers' market.

"Staple food" means those food items intended for home preparation and consumption, which include meat, poultry, fish, bread and breadstuffs, cereals, vegetables, fruits,

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Footnotes at end of article.

fruit and vegetable juices, and dairy products. Accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices are not staple foods for the purpose of qualifying a firm to participate in the program as a retail foodstore.

"Wholesale food concern" means an establishment which sells eligible food to retail food stores or to meal services for resale to households.

FOOTNOTES

[1] Sec. 3(k) of the Act defines a retail food store, in part, as "* * * an establishment or recognized department thereof or house-to-house trade route, over 50 percentum of whose food sales volume consists of staple food items for home preparation and consumption, such as meat, poultry, fish, bread, cereals, vegetables, fruits, dairy products, and the like, but not including accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments and spices * * *"

[2] The Associated Retail Bakers of America, letter of June 3, 1978, provided a detailed and useful analysis of the bakery product issue. All retailer/wholesaler comments are available for public inspection and copying at FNS Offices, Room 640, 500 12th Street SW., Washington, D.C. 20250.

[3] House Committee on Agriculture (H. Rept. 95-464; June 24, 1977).

[4] As noted in the preamble to the proposal, the statutory intention was "* * * to eliminate certain stores such as candy and ice cream stores, spice stores (and) donut shops which do not also sell bread products * * *" (43 FR at 18903.)

[5] The letter of June 14, 1978, from NARGUS (the National Association of Retail Grocers of the United States), is representative of the comments concerning the feared loss of authorization for convenience stores and small rural groceries.

PART 272—[REDESIGNATED]

Part 272 is redesignated as part 278 as set forth below.

Part 272 is redesignated as part 278 and is revised to read as follows:

PART 278—PARTICIPATION OR RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND BANKS

Sec.
278.1. Approval of retail foodstores and wholesale food concerns.
278.2. Participation of retail food stores.
278.3. Participation of wholesale food concerns.
278.4. Procedures for redeeming coupons.
278.5. Participation of banks.
278.6. Disqualification of retail foodstores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.
278.7. Determination and disposition of claims—retail foodstores and wholesale food concerns.
278.8. Administrative reviews—Retail foodstores and wholesale food concerns.

Authority: 91 Stat. 958 (7 U.S.C. 2011-2027).

§ 278.1 Approval of retail food stores and wholesale food concerns.

(a) *Application.* Any firm desiring to participate in the program shall file an application as prescribed by FNS. The FNS officer in charge shall deny or approve authorization, or request more information, within 30 days of receipt of the application.

(b) *Determination of authorization.* An applicant shall provide sufficient data on the nature and scope of the firm's business for the FNS officer in charge to determine whether the applicant's participation will further the purposes of the program. In making this determination the FNS officer in charge shall consider all of the following:

(1) *The nature and extent of the food business conducted by the applicant.* (i) Retail food stores which sell primarily food for home preparation and consumption and in which one or more staple food items, as defined in § 271.2, make up more than 50 percent of eligible food sales shall normally be considered to have food business of a nature and extent which will further the purposes of the program. These stores shall include: Full-line grocery stores; convenience stores; stores which sell meat, poultry, or, fish; stands which sell agricultural commodities; farmers markets; milk routes; bread routes; day-old bread stores; bakeries which sell bread; and nonprofit cooperative food-purchasing ventures which are properly licensed to sell food in the state and locality in which they are operating.

(ii) Firms whose primary business is not the sale of food for home preparation and consumption, but who have recognized grocery departments in which stable foods make up more than 50 percent of eligible food sales, shall normally be considered to have food business of a nature and extent which will qualify the store for participation in the program. In determining whether a store's staple food business is sufficient for the store to qualify for participation in the program, the FNS officer in charge shall also consider:

(A) The volume of staple food business the store does;

FNS(FS) INSTRUCTION 741-2

12. Bakeries. For the purposes of this Instruction, bakeries are stores which carry a wide variety of baked foods including bread. They may stock milk and other dairy products. Such stores can reasonably be expected to do a substantial business in these staple foods and, therefore, may be authorized.

13. Donut and Pastry Shops. These shops, for the purposes of this Instruction, are firms which specialize in donuts and sweet baked goods either for carryout or to be eaten on the premises. Many such shops feature coffee bars. If firms of this type do not do a substantial business in the sale of staple foods such as bread, they do not effectuate the purpose of the program and, therefore, should not be authorized.

Mr. McGOVERN. Mr. President, if the Senator from Michigan will yield, I concur absolutely with his understanding of the law, and I urge the Department of Agriculture to take steps to see that the policies on authorizing retail bakeries selling bread along with other bakery products are carried out by the field offices and other officials in charge of making the necessary determinations.

I am convinced, I will say to the Senator, that the Department will do this.

I have a rather lengthy letter from them, under date of July 23, in which they outlined their policies on authorizing retail bakeries. They give the rationale behind them and the steps that they are taking to effectuate these policies.

But the Senator's concern is well taken.

It is simply a misunderstanding of the law at the local level that has resulted in the problem that he raises, but I think it is important that this legislative history be made.

I commend the Senator from Michigan for being alert to a problem that we want to correct.

Mr. LEVIN. I thank my friend from South Dakota.

Mr. President, I ask unanimous consent that the letter from the Department of Agriculture to which the Senator referred be printed in the RECORD.

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

U.S. DEPARTMENT OF AGRICULTURE,
FOOD AND NUTRITION SERVICE,
Washington, D.C., July 23, 1979.

Hon. GEORGE S. MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: This is to advise you of the Department of Agriculture's policy on authorizing bakeries to accept food stamps.

The 1977 Food Stamp Act requires firms to do more than 50 percent of their eligible food sales in staple foods before they can be authorized to accept food stamps. The only bakery product listed in the Act as a staple food is bread. In reviewing the legislative history on this issue, it was clear to us that Congress intended the Department to eliminate pastry and donut stores that do not sell bread from participation in the program while continuing the participation of bakeries that sold a variety of breadstuffs. Therefore, our regulations include "bread and breadstuffs" in the list of staple foods.

Unfortunately, it would appear that this policy of retaining bakeries that offer a spectrum of breadstuffs while eliminating those that sell only donuts or other sweets, has been misunderstood by some of our Field Offices. We have recently discovered that some authorizations have been withdrawn for bakeries whose food sales do not consist of more than 50 percent bread. These authorizations were withdrawn in error.

Enclosed are two pieces of correspondence that we have sent to our field staff through our regional offices in an effort to clarify the policy with the field staff. Also enclosed is a copy of the Food Stamp Program Regulations with the portion marked in the preamble that was intended to clarify the policy on this issue and the regulation dealing specifically with bakeries marked.

We will make a further effort to clarify the policy with the field staff, and will reevaluate the authorization of any bakeries that have been withdrawn from the program on the basis that they do not have an adequate portion of their food sales in staple foods.

ALBERTA C. FROST,
Acting Deputy Administrator for Family Nutrition Programs.

Enclosures.

U.S. DEPARTMENT OF AGRICULTURE,
FOOD AND NUTRITION SERVICE,
Washington, D.C., June 7, 1979.

Subject FNP—Reevaluation of Retail Bakeries.

To All regional directors for family nutrition programs.

This is in reference to D. W. Moritz's memo dated May 15, 1979, to R. E. Mellinger concerning some questions that had been raised in that region on the authorization of bakiers. Copies of Mr. Mortiz's memo were sent to all regions.

From the reaction in several regions to Mr. Moritz's memo, it appears that there is still some misunderstanding of the policy for authorization of bakeries. The confusion of this issue seems to be caused by the term "breadstuffs" which is used in the regulations and which was also used in the discussion of bakeries by the House Agriculture Committee in its report on the Food Stamp Act of 1977. Several regions had asked for a more specific definition of the term.

"Breadstuff" is defined in "Webster's Seventh New Collegiate Dictionary" as "1: grain, flour 2: bread." If we used the above definition for the purpose of determining whether a firm sells 50 percent or more staple food, virtually all bakeries would be eliminated because very few have over 50 percent of their food sales in bread. However, as indicated in the House Agriculture Committee Report, Congress did not plan to exclude bakeries, but they did intend to exclude the so-called pastry and donut shops.

The meaning of the last paragraph of Mr. Moritz's memo and the policy of this agency concerning the authorization of bakeries is as follows:

Bakeries which sell a variety of baked goods including bread may be authorized regardless of whether the bakery bakes the bread or buys it for resale. The field staff is not required to evaluate the volume of bread sales to determine whether it is sufficient to warrant authorization. If the bakery sells bread it may be authorized. A bakery that does not sell bread shall not be authorized.

It might be advisable to review Mr. Moritz's memo to have an understanding of how the policy as stated above evolved.

A. P. HORNSBY, Jr.,
Director, Federal Operations Division.

U.S. DEPARTMENT OF AGRICULTURE,
FOOD AND NUTRITION SERVICE,
Washington, D.C., May 15, 1979.

Subject FNP—Reevaluation of Retail Bakeries.

To Richard E. Mellinger, Regional Director for Family Nutrition Programs, Western Region, FNS, San Francisco, California.

Thomas C. Ahern, Chief of your Compliance Management Section, wrote to me on April 19, 1979. With his letter, he sent a request from Sacramento Officer In Charge Robert Delany for a clarification of FNS policy on staple foods in bakeries. Mr. Delany particularly asked for a more specific definition of breadstuffs. He also asked how the 50 percent staple foods criterion is to be applied.

The term "breadstuffs" was included in the list of staple foods in the regulations, and therefore has become significant in formulating policy on the authorization of bakeries, because the term was used in the House Agriculture Committee report in describing what a bakery must sell to be authorized to participate in the program.

The report states on page 336:

"To satisfy the 50 percent test the store . . . should offer a variety of staples, meaning a spectrum of . . . breadstuffs . . . since the Committee has no reason to foreclose . . . bakeries . . . from being able to accept food stamps in trade."

"The intent of the Committee is to eliminate without question certain stores, such as . . . donut shops not selling other bakery or bread products. . . ."

In order for the 50 percent staple foods provision in the Act to be implemented in conformance with the intent of the Committee, the term "breadstuffs" has be broad enough to include a wide variety of bakery products. However, because the Committee intended to exclude donut shops from participation, the policy on authorization of bakeries has to go beyond the simple 50 percent staple foods test. A bakery should sell a variety or a spectrum of baked staple foods which must include bread to qualify for authorization. Bakeries that do not sell bread in addition to other baked goods (breadstuffs) cannot be authorized. Consequently, donut shops that do not sell bread cannot be authorized even though more than 50 percent of their business is derived from the sale of breadstuffs.

D. W. MORITZ,
Acting Director,
Federal Operations Division.

Mr. McGOVERN. Mr. President, I thank the Senator.

Mr. LEVIN. I thank the Senator.

ORDER FOR VOTE TO OCCUR AT 2:30 P.M TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote occur on the amendment by Mr. HELMS at 2:30 p.m. today.

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

PRIVILEGE OF THE FLOOR

Mr. LONG. Mr. President, it is my understanding that sometime fairly soon this afternoon, the majority leader will suggest that we temporarily lay aside the food stamp bill and that we proceed to the consideration of the trade bill.

I ask unanimous consent, therefore, that the following persons have the privilege of the floor:

Michael Stern, Bob Cassidy, and Dave Foster of the Finance Committee; Carl Bates of the Joint Committee on Taxation; Brian Walsh of the Governmental Affairs Committee; and Eric Lee of the Commerce Committee.

Mr. DOLE. Mr. President, I make the same request for Rick Johnson and Chip Roe of the Finance Committee.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the food stamp bill be temporarily laid aside, that a call for the regular order not bring it back, and that the Senate proceed to the trade bill, which is a privileged matter.

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

Mr. ROBERT C. BYRD. I thank Mr. McGOVERN, Mr. HELMS, and all other Senators involved.

TRADE AGREEMENTS ACT OF 1979

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4537) to approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes.

The Senate proceeded to consider the bill.

ORDER FOR YEAS AND NAYS ON PASSAGE OF TRADE AGREEMENTS ACT OF 1979, H.R. 4537

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on final passage of MTN, H.R. 4537.

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

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, it is usually customary in legislation of this type to pay tribute to the staff at the end of the debate. However, I would like to exercise my privilege today as floor manager of this bill to pay a special tribute to Mr. Bob Cassidy, the head of the professional staff of the International Trade Subcommittee, and a member of the staff of the Committee on Finance, for his outstanding work.

I do not believe that in my experience in this body I have seen a member of the staff give to a piece of legislation such leadership, understanding, intelligence, drive, and coordination. This has been a very, very difficult negotiation, unusual in the way this measure is presented. I am filled with admiration for Mr. Cassidy for the excellence of his performance. It is an example that will be followed for many years when members of the staff seek to explain and to understand the role of a staff member in the legislative process.

Assisting him from the Committee on Finance were Dave Foster, Bill Finan, and from the minority staff Charles Roh and Rick Johnston, all of whom gave greatly of their energies, their intelligence, and their constructive ideas.

Further, they were assisted by Mr. Carl Bates of the Joint Committee on Taxation; Mr. Eli Nobleman and Brian Walsh of the Governmental Affairs Committee; Mr. Eric Lee of the Commerce Committee; and Lloyd Ator of the Senate Legislative Council.

Mr. President, the Trade Agreement Act of 1979 marks the end of the most significant international trade negotiation in history. It may mark the beginning of a new era for U.S. international trade policy. Let me explain why.

As chairman of the Subcommittee on International Trade of the Committee on Finance, I have followed the Tokyo round of multilateral trade negotiations closely from beginning to end. The MTN has produced tangible results. It did not end in a whimper. This alone is a remarkable achievement.

The negotiations began in 1973 during a worldwide economic boom. Since then we have had the OPEC price increases, a global recession combined with inflation, and changes in the government administration of every major trading country.

The productive conclusion of the MTN is due largely to the leadership of the United States. Several Presidents and many Government officials have contributed to this effort. However, there is no doubt that the successful conclusion of the negotiations is due principally to the efforts of one man, Ambassador Robert S. Strauss.

Although the negotiations are over, the decision whether the United States will agree to the results has not been made. That decision is the constitutional responsibility of Congress. It is the decision which we will have to make.

The Committee on Finance recommends that the Senate agree to implement the results of the Tokyo round of multilateral trade negotiations for the United States. We believe that the new MTN agreements on subsidies, Government procurement, product standards, antidumping, customs valuation, and import licensing should result in more American exports and in more discipline on unfair practices in international trade.

The Trade Agreements Act establishes the legal basis for the United States to enforce these agreements. Among other things, it will provide domestic parties an opportunity to get relief when foreign governments violate the agreements. It will also completely revise the countervailing duty and antidumping

laws to provide quick and certain relief for domestic industries which are injured by dumped or subsidized imports.

With this bill as their legal foundation in the United States, the MTN agreements should promote increased trade and higher standards of living throughout the world. I say "should" because the MTN agreements and this bill merely establish rules. Rules mean nothing unless thev are enforced.

If history is any indication, international enforcement of the new trade rules will depend on the United States. Our ability to enforce the MTN agreements and to promote the short- and long-term economic interests of the United States require that we make some fundamental changes. Furthermore, changes are necessary if we, the Congress, are to be certain that this bill is to be administered as we intend.

The first thing we must do is to continue the close cooperation between the President and Congress that resulted in this bill. The era of the trade agreements program, as it existed between 1934 and 1975, is over. U.S. negotiators should never again enter into trade agreements without close congressional review. The Trade Agreements Act is the product of a unique and successful constitutional experiment in coordination between the executive and legislative branches before, during, and after an international negotiation. We must apply the lessons we have learned from this experiment to future negotiations.

Second, the executive branch trade policy agencies must be recognized. We can no longer afford the luxury of dispersing political responsibility for international economic policymaking among many agencies. We can no longer afford limp enforcement of our unfair trade laws and uncoordinated attempts at export promotion. We must establish a strong trade policy agency.

The Committee on Governmental Affairs, intends to act very quickly on this matter. I hope the Congress will complete work on the trade policy reorganization within the next 2 or 3 months. If we do not, the benefits of the MTN for the United States will be minimal.

Finally, we must all realize that the world is a tough marketplace. The United States is now, and has been for many years, the greatest trading nation on Earth. But we must fight to keep the markets we have. And we must fight to gain new markets.

It is essential that the United States win this battle. Our economic welfare absolutely depends on international trade, both exports and imports. Furthermore, our national security depends on trade. Economics, not "geopolitics," determine foreign relations today. If anyone doubts this, they must not have noted the effect of OPEC price increases on this country.

In conclusion, Mr. President, if we agree to the Trade Agreements Act and make the changes I have mentioned, then our vote will mark the beginning of a new era for the U.S. international trade policy. If we do not approve this bill and do not make other fundamental changes then the world and this country will spend a generation trying to recover. I strongly recommend that the Senate approve H.R. 4537.

Mr. President, in this endeavor the entire Committee on Finance, not just the subcommittee, under the leadership of Chairman LONG and Senator DOLE of Kansas, the ranking minority member, have played a strong coordinating role.

It was not just the International Trade Subcommittee, but every member of the Finance Committee who took a special and deep interest in this bill, and who made his contribution to this measure. However, I do want to pay a special tribute to the ranking minority member of our subcommittee, the distinguished Senator from Delaware (Mr. ROTH). I do not know how any Member of this body could work more closely or with greater cooperation and greater empathy with any other Member than has been true of my work on this measure with the distinguished Senator from Delaware. He has been thoughtful, considerate, intelligent, and constructive throughout, which made the work on this complicated measure really a sheer joy.

Furthermore, we have been working very closely together to implement this legislation. We realize that no matter what the policy in this legislation is, in order for it to work we must reorganize the trade policy agencies of our Government.

We believe that the benefits of the MTN for the United States will not be realized unless we have a meaningful reorganization. We started hearings in the Governmental Affairs Committee today on reorganization proposals. The administration has sent up their proposal, and the distinguished Senator from Delaware and I believe them to be inadequate. It is our feeling that, during the next month, we can work out a much better proposal. It is our hope that we will supplement MTN with a reorganization proposal that will really implement this bill and the MTN. Finally, it is our hope that this body will adopt the proposal we will report out of the Governmental Affairs Committee.

My thanks to the distinguished Senator from Delaware for his many acts of kindness and cooperation. It has really been, as I say, a sheer joy and pleasure to work with him.

Mr. ROTH. Mr. President, it is difficult to follow the distinguished chairman of the Subcommittee on International Trade. I would like to echo what he has said so eloquently, that the entire Finance Committee—both Democratic and Republican members—has played a crucial role in these trade deliberations. There are many people we could mention by name for their outstanding contributions to this legislation. As I said in a hearing this morning, Mr. President, this country owes a great debt to the distinguished Ambassador, Mr. Strauss, who did an outstanding job in negotiating these trade agreements on behalf of the United States. In a large share, the success of those negotiations must go to him.

However, there is one other individual who, I think, equally deserves credit for the outstanding job that has been performed, and that is, of course, my distinguished chairman (Mr. RIBICOFF).

I know it is traditional on major legislation to discuss and applaud the work of other individuals, but this is a little something special. I have learned to know and admire Senator RIBICOFF in the many years I have served with him, both on the Finance Committee and the Committee on Governmental Affairs. I think he is one of the most creative, hard-working, and able men I have ever come in contact with, and it has indeed been a great pleasure to serve with him on trade matters. Together we have tried to reconcile the differing points of view that have been expressed throughout these negotiations.

I think the success has been due to the fact that Senator RIBICOFF has been willing to sit down and listen to all viewpoints, and then try to work out an approach that would accommodate diverse interests.

I would like to mention one further fact. That is that Senator RIBICOFF and I are working as one in the trade reorganization proposal. As he said a few minutes ago, neither of us is satisfied with the proposal of the administration, but both of us are eager to work with the administration in developing a stronger approach.

I would say to those who think that they might be able to divide Senator RIBICOFF and me to promote a weak bill that they might as well forget it, because we are going to continue to work together, and I think the whole committee will work together in insuring that we have a trade apparatus that will help make the United States the No. 1 trading nation of the world again.

Mr. President, as the ranking Republican on the International Trade Subcommittee, I support the passage of H.R. 4537, the Trade Agreements Act of 1979.

This bill implements the results of the Tokyo round of multilateral trade negotiations (MTN). In urging my colleagues to support the legislation, I want them to have a full understanding of the opportunities and the responsibilities presented by the MTN package.

The true test of this package lies in its implementation—domestically and internationally. Once this bill is approved, we cannot allow international trade issues to be placed once again on the back burner. To the contrary, approval of the package commits us to following through on enforcing our new rights and to fulfilling our obligations under the agreements. Approval signifies a greater commitment to multilateral and bilateral trade negotiations and international dispute settlement procedures. Approval requires us to be even more attentive to domestic programs, laws, and policies relating to international trade.

This is why it is essential to have in place the most effective possible Government trade apparatus to develop and coordinate our international trade policy and vigorously implement the international codes negotiated in the MTN.

Potentially, the MTN codes can be of great importance to American industries and workers. Each code establishes guidelines which, if followed, will restrict

the use of unfair or trade-disrupting practices in the area it addresses. The agreements also begin to exert discipline on the use of nontariff barriers to trade—which, as tariffs have been reduced in the past decade, have become the major obstacles to free trade. For example, under the subsidies code, we will have rights to protect and to require elimination of unfair subsidy practices of foreign governments, which adversely effect our export trade. The Government procurement code will work to open up foreign government purchasing markets which are now effectively closed to American exporters. The code requires our trading partners to move toward adopting our system of openness in drafting procedures to set standards. Through its dispute settlement procedures, the Standards code can help to reduce the use of standards as a means of blocking U.S. exports.

But these rights are only paper rights unless they are effectively and aggressively pursued. To make the most of our new opportunities, we must monitor closely foreign government practices. We must pursue, through the international dispute settlement procedures and available domestic remedies, any violations of code obligations by foreign governments.

The MTN package, of course, is a negotated agreement which involves concessions as well as gains. For the first time, the United States is adopting a material injury test for our countervailing duty law. This same test will be applied to the antidumping law. We have liberalized and restricted some Buy American preferences, and we are replacing the American selling price system of valuing certain imports.

In our drafting session with the executive branch, my colleagues on the various committees involved and I sought to insure that the changes in U.S. law embodied in this bill regard only fair and mutually beneficial trade.

In most cases, only those countries which sign the codes will benefit from their provisions embodied in U.S. law.

In reviewing antidumping and countervailing duty legislation, we made significant improvements to better protect American producers against unfair foreign competition. The time periods for Treasury and ITC determinations have been reduced. The use of discretionary "offsets" has been severely restricted. The verification of information submitted by foreign governments is required, and other important protections have been built in.

We argued long and hard over the exact phraseology of the material injury test. While I believe different language would have been more clear, there was no doubt about the congressional intent. The material injury criterion should be consistent with the criterion used by the ITC under existing law for antidumping cases in the period between January 3, 1975, and July 2, 1979. The Congress does not intend a tougher injury test.

Another area where we had a significant debate was the subject of future tariff negotiations. At the request of the administration, the interested committees of jurisdiction agreed to extend the tariff negotiating authority, subject to strict restrictions. I was opposed to such an extension, it being my belief that such authority must be closely reviewed and discussed with the administration before it is granted.

Tariff reductions can have far-reaching effects on industries in this country—and the authority to use it must be closely circumscribed with appropriate conditions applied. In the last hour, the administration saw fit to withdraw the tariff negotiating authority from the bill. I applaud this action, noting that tariff negotiations must be withheld until further authority is granted by Congress. I urge the Executive to come forward with a proposal for such authority when they have ascertained the need for such authority under projected world economic conditions and the ability of this country's economy to undergo further tariff reductions.

Most importantly, the codes have force and effect only as embodied in U.S. law. We can make any subsequent changes in domestic law by the legislative process, the codes notwithstanding. I would not hesitate to initiate and fight for appropriate future legislative changes if this act is not being interpreted properly by U.S. agencies or if foreign governments are not living up to their promises.

Summarily judging the package on its own merits, it is my feeling that it is marginally beneficial for our country. It may help to slow a dangerous trend toward mercantilism and government involvement in commercial transactions. But we must not delude ourselves by thinking that the MTN agreements, once given force and effect internationally, will erase our $30 billion trade deficit or help our trade sensitive industries survive the onslaught of import competition.

We must recognize that this package serves merely as an invitation to the United States to enter into a new era of trade policy, economic interdependence, and negotiation. If we accept the invitation, we must be willing to change old attitudes, old mechanisms, and outdated policies. We must begin to reassert our role as a major trading nation; supplanting our Marshal plan mentality with the approach of a Yankee trader. We must accept and accommodate the growing importance of international trade in our economy.

To press my point—consider that the value of our imports and exports in 1960 represented about 7 percent of our GNP in that year. Twelve years later, that figure had only grown by 2 percent. But in the span of the last 6 years, the value of imports and exports of this Nation have skyrocketed to over 14 percent of our GNP. It will continue to climb. We have not even come close to the positions which the other developed economies have reached. Compared to our 14 percent, Japan registers about 23 percent of its GNP in international trade. West Germany is around 43 percent. We must recognize these horizons and prepare now for the economic consequences they hold.

The MTN agreements provide us with the opportunity to divert an impending crisis for our economy. The new recession in which we are finding ourselves, on top of the trade deficits we are suffering, poses an economic crisis for this country, which portends higher unemployment and failing productive capacities which will be very difficult to reverse. Let us learn a lesson from our fumbling in the energy field. There we saw the growing problems but only took belated action—too little too late. Trade problems are now looming on the horizon. We can avoid much of their adverse impact if we begin to take aggressive action now to use the mechanisms and rules established in the MTN and continue to give our closest attention to trade issues.

If 1979 is the year of trade, let us resolve now to make the 1980's the decade of trade in which the United States begins to take a mature approach to international trade—for the betterment of this Nation's economy as well as the world trading system. A program of action and objectives with which to enter the decade of trade should consist of two levels. On the international level, the program must—

First. Pursue aggressive enforcement of the MTN codes of conduct and improvements in their substantive rules and format;

Second. Seek greater coordination between such international institutions as the IMF, World Bank, and the GATT when addressing trade and development issues;

Third. Actively seek to constrain and reduce the burgeoning use of trade preferences among groups of countries, or implement a policy which will effectively counteract their effect;

Fourth. Reevaluate the general most-favored-nation trade principle to see whether, in light of growing nontariff barriers, that principle should not be subject to certain exceptions;

Fifth. Negotiate and conclude meaningful agreements on the use of Government financed export credits, safeguard actions which restrict imports, and border tax adjustments which create unfair trade advantages; and

Sixth. Emphasize in all aspects of trade negotiations that services are to enjoy the same guarantees of free and fair trade as that provided to the transfer of goods.

The domestic aspect of our program for the decade of trade in many ways has already been launched. It is simply a matter of finishing the task.

A major decision with which we will soon be confronted is whether Government financing and MFN status shall be afforded China and perhaps the Soviet Union. In fact, the whole question of linking trade with other foreign policy considerations will be addressed.

In order to cope with the increasing imports which our free trade policy encourages, the trade adjustment assistance programs must be renovated to provide increased eligibility and more effective benefits. Revisions to the program have already been approved by the House and will soon be presented to this body for its consideration.

On the export side of the ledger, a number of proposals have been laid on the table. Just a few days ago, we approved the Export Administration Act

of 1979 which will help facilitate the exporting process. There are many other proposals yet to be voted on which provide tax incentives or antitrust exemptions which will help American business effectively compete for export markets. In recognition of the numerous proposals and the need to coordinate our activities to arrive at an effective legislative program for the stimulation of exports, Senator STEVENSON and I are establishing a Senate Export Caucus. I welcome my colleagues' participation in this effort.

I would recommend one other subject for us to include in our domestic international trade program. We must begin to pay closer attention to the special needs of small business as it is impacted by international trade. Too often we lose sight of this major segment of our economy in drafting trade legislation or implementing trade policy. Beginning now, we must recognize and promote the interests of small business in international trade.

Mr. President, I want to reiterate a most important point. All the programs, all the laws, all the MTN packages which we may put together will be futile unless we accomplish an effective reorganization of the trade functions in the executive branch. We have seen the White House proposal to create a new Department of Trade and Commerce. It is a classic example of bureaucratic box shuffling for cosmetic purposes. Few of the objectives we are seeking would be met.

In the weeks to come, we need to impress upon the administration that the reorganization must establish a lead trade agency with the primary responsibility of implementing the MTN codes and enforcing our unfair trade practices laws. It is of paramount importance that the consolidation of trade functions raise trade issues to a level of top priority in the executive branch. People's jobs, as well as the economic structure of this country, can no longer suffer the inadequacies of our international trade policies.

Mr. President, I would like to close by stating my great appreciation to my colleagues on the Finance Committee for the effective role they have played in monitoring and drafting the MTN package. The exercise has been a truly bipartisan effort exemplified by the work accomplished by Senators HEINZ, MOYNIHAN, DANFORTH, and BENTSEN. Of course, the effective leadership of Chairman LONG and Senator DOLE, our ranking Republican member, contributed to that success. The bipartisan spirit also pervaded our work with the administration. Bob Strauss and his staff can be proud of their accomplishments. Finally, Mr. President, I would like to pay tribute to my good friend and colleague, Senator RIBICOFF. We have spent many hours and days together working on these trade issues. I have a deep respect for his substantive abilities and a great appreciation for the cooperative and professional manner in which he conducts business. Because of this guidance and leadership, the MTN package contains many features which will benefit this country; it is for that reason that I support the bill.

INCREASED AUTHORIZATIONS FOR 1979 FOOD STAMP PROGRAM

The Senate continued with the consideration of S. 1309.

The PRESIDING OFFICER. The hour of 2:30 p.m. having arrived, under the previous order, we will now return to the consideration of S. 1309 for a vote on the Helms amendment.

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 Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), and the Senator from Ohio (Mr. METZENBAUM) are necessarily absent.

I further announce that the Senator from Montana (Mr. BAUCUS) is absent on official business.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 37, nays 57, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—37

Armstrong	Hatch	Roth
Baker	Hayakawa	Schmitt
Bellmon	Heflin	Simpson
Bentsen	Helms	Stennis
Boschwitz	Humphrey	Stevens
Byrd,	Jepsen	Stewart
Harry F., Jr.	Kassebaum	Thurmond
DeConcini	Long	Tower
Domenici	Lugar	Wallop
Exon	McClure	Warner
Ford	Morgan	Young
Garn	Nunn	Zorinsky
Goldwater	Proxmire	

NAYS—57

Bayh	Eagleton	Muskie
Biden	Glenn	Nelson
Boren	Hart	Packwood
Bradley	Hatfield	Pell
Bumpers	Heinz	Percy
Burdick	Hollings	Pryor
Byrd, Robert C.	Huddleston	Randolph
Cannon	Jackson	Ribicoff
Chafee	Javits	Riegle
Chiles	Johnston	Sarbanes
Church	Kennedy	Sasser
Cochran	Leahy	Schweiker
Cohen	Levin	Stafford
Cranston	Magnuson	Stevenson
Culver	Mathias	Stone
Danforth	Matsunaga	Talmadge
Dole	McGovern	Tsongas
Durenberger	Melcher	Weicker
Durkin	Moynihan	Williams

NOT VOTING—6

Baucus	Inouye	Metzenbaum
Gravel	Laxalt	Pressler

So Mr. HELMS' amendment (UP No. 441) was rejected.

Mr. MCGOVERN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

TRADE AGREEMENTS ACT OF 1979

The Senate continued with the consideration of H.R. 4537.

The PRESIDING OFFICER. The Senate will now return to the consideration of H.R. 4537.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana seeks recognition. The Senator from Connecticut is in charge as manager of the bill. Does the Senator yield to the Senator from Louisiana?

Mr. RIBICOFF. Yes.

Mr. LONG. Mr. President, the Trade Agreements Act of 1979 will implement the results of the Tokyo round of multilateral trade negotiations for the United States. The Committee on Finance and other Senate committees have worked on H.R. 4537 for many months.

The bill is a product of a unique experiment in cooperation between the Congress and the executive branch. For the first time, Congress was consulted before, during, and after a long and complex international negotiation. Although the committee is not 100 percent satisfied with the results of that negotiation, we do believe that the experiment in cooperation between the two branches of our Government worked.

Coordination between the Congress and the President during international trade negotiations is possible. Cooperation among numerous Senate and House committees is also possible. The Trade Agreements Act is the proof. The Finance Committee believes this cooperation must continue and that it must be the basis for U.S. trade policy in the future.

Mr. President, the Trade Agreements Act of 1979 is not a perfect bill. No bill that reflects the compromises reached in negotiations between the United States and 80 foreign countries and between numerous congressional committees and the President could be perfect. However, on balance, the Trade Agreements Act is in the best interests of the United States. It will permit the United States to attack foreign barriers to our exports and it will provide more efficient defenses to unfairly traded imports. The Committee on Finance recommends that the Senate approve the bill.

Mr. President, let me summarize the provisions of the bill for the Senate.

SECTION 2. APPROVAL OF TRADE AGREEMENTS

Section 2 of the bill would approve the trade agreements submitted to the Congress on June 19, 1979, and the statement of proposed administrative action to implement such agreements. The texts of the agreements approved would be the texts submitted. However, changes in those texts of a technical or clerical nature and changes to the annexes to the agreements which maintain the balance of U.S. rights and obligations under the agreements would not be permitted. The President would be permitted to accept each approved agreement for the United States unless, with certain exceptions, he determines that a major industrial country is not accepting the agreement. An agreement would apply between the United States and another country only when that country has accepted the agreement and the President determines it should not be denied the benefits of the agreement with respect to the United

States because it has not accorded the United States adequate benefits.

SECTION 3. RELATIONSHIP OF TRADE AGREEMENTS TO THE UNITED STATES LAW

Section 3 would provide that no provision of any trade agreement approved by the bill which is in conflict with any statute of the United States will be given effect under the laws of the United States. Any changes required in U.S. law in the future because of a requirement of, amendment to, or recommendation under such an agreement would have to be made by legislation considered under the provisions of the Trade Act of 1974 providing for rapid consideration of certain trade legislation.

TITLE I—COUNTERVAILING AND ANTIDUMPING DUTIES

COUNTERVAILING DUTIES

General rule.—Subtitle A of title VII of the Tariff Act of 1930, as added by section 101 of the bill, would apply a new countervailing duty law to imports from countries which have assumed the obligations (or substantially equivalent obligations) of the MTN agreement relating to subsidies and countervailing measures. Imports from seven developing countries could come under the new law under agreements in force on the day of the bill was submitted to Congress, June 19, 1979. The existing countervailing duty law would apply to all other imports.

Under the law, countervailing duties would we imposed when the administering authority (now the Secretary of the Treasury) determines that a country or person is providing a subsidy with respect to a class or kind of merchandise imported into the United States, and the U.S. International Trade Commission (ITC) determines that an industry in the United States is materially injured, threatened with material injury, or that the establishment of an industry is materially retarded, by reason of imports of that merchandise. Material injury in the countervailing duty and antidumpting statutes would be defined to be harm which is not inconsequential, immaterial, or unimportant.

Procedures.—Countervailing duty investigations could be self-initiated by the administering authority or initiated by petition. Within 20 days after a petition is filed, the administering authority would determine whether the petition alleges the elements necessary for relief (material injury to a domestic industry by reason of subsidized imports) and includes information reasonably available to the petitioner supporting the allegations. If the determination is affirmative, an investigation to determine whether subsidization exists would begin. If the determination is negative, the proceedings would end.

Within 45 days after a petition is filed or an investigation is self-initiated, the ITC would determine whether there is reasonable indication that injury to a domestic industry by reason of subsidized imports exists. If the determination is negative, the proceedings would end.

Within 85 days after a petition is filed or an investigation is self-initiated, the authority would make a preliminary determination, based on the best information available at the time, whether there is a reasonable basis to believe or suspect that a subsidy exists. In extraordinarily complicated cases, this determination would be made within 150 days.

If the preliminary determination is positive, the administering authority would require bonds or cash deposits to be imposed on allegedly subsidized imports in an amount equal to the estimated net subsidy, and continue its investigation. ITC would initiate an investigation to determine whether injury exists. If the authority's preliminary determination is negative, the administering authority would continue its investigation.

Within 75 days after its preliminary determination, the administering authority would make a final determination whether a subsidy exists. If the determination is negative, the proceedings would end.

Within 120 days after the administering authority makes an affirmative preliminary determination, the ITC would make a final determination whether a domestic industry is being materially injured by reason of subsidized imports. In a case where the administering agency makes a preliminary determination that a subsidy does not exist, the ITC final determination on material injury would be made within 75 days after the administering authority's affirmative final determination on subsidy.

If the final determination of the ITC is affirmative, a countervailing duty order requiring imposition of countervailing duties would be issued within 7 days of the ITC determination.

Suspension of investigation.—An investigation could be suspended, prior to a final determination by the administering authority on the issue of subsidization, if (1) the government of the subsidizing country, or exporters accounting for substantially all of the imports of the merchandise under investigation, agree to eliminate the subsidy, to offset completely the net subsidy, or to cease exports of the merchandise to the United States, within 6 months after suspension of the investigation; or (2) extraordinary circumstances are present and the government or exporters described in (1) agree to take action which will completely eliminate the injurious effect of the imports of the merchandise under investigation.

The ITC, upon petition, may review an agreement to completely eliminate the injurious effect to determine if that result is accomplished. If the ITC determines that the injurious effect is not eliminated, then the investigation must be completed.

If the administering authority determines an agreement which resulted in suspension of an investigation is being violated, then the investigation would be resumed. Unliquidated imports of the merchandise covered by the agreement would be liable for countervailing duties retroactively if entered on or before the later of (1) 90 days before the date of the affirmative preliminary determination which is issued on the day the investigation is suspended, or (2) the date of the violation.

Miscellaneous.—Deposit of estimated countervailing duties on imports entered on or after the date a countervailing duty order is published would be required at the same time deposit of estimated normal duties is required, that is, within 30 days after release of the goods from customs custody. Final settlement of accounts with customs on imports subject to countervailing duties would be required within 12 months after the end of an exporter's or manufacturer's fiscal year within which the imports are entered, or withdrawn from warehouse, for consumption.

Countervailing duties would be imposed retroactively from the date of a final finding of—(1) injury, or (2) threat of injury which, but for suspension of liquidation, would have been injury, to the date on which liquidation of entries of imports subject to investigation was suspended, usually the date of the preliminary determination. In "critical circumstances," countervailing duties would be imposed retroactively from the date of a final finding of inquiry to the date 90 days before the date on which liquidation was suspended. Critical circumstances would exist when the ITC determines there is injury which would be difficult to repair, caused by what the administering authority has determined to be massive imports over a relatively short period benefiting from export subsidies.

ANTIDUMPING DUTIES

General rule.—Subtitle B of title VII of the Tariff Act of 1930, as added by the bill, would repeal the Antidumping Act, 1921, and replace it with a comprehensive statute built upon the 1921 Act and consistent with the MTN antidumping code. Under the new law, antidumping duties would be imposed when the administering authority (now the Secretary of the Treasury) determines that a class or kind of merchandise is being or is likely to be sold in the United States at less than fair value and the U.S. International Trade Commission (ITC) determines that an industry in the United States is materially injured, threatened with material injury, or that the establishment of an industry is materially retarded, by reason of imports of that merchandise.

Procedures.—Antidumping investigations could be self-initiated by the administering authority or initiated by petition. Within 20 days after a petition is filed, the adminstering authority would determine whether the petition alleges the elements necessary for relief (material injury to a domestic industry by reason of dumped imports) and includes information reasonably available to the petitioner supporting the allegation. If the determination is affirmative, the authority would initiate an investigation to determine whether dumping exists. If the determination is negative, the proceedings would end.

Within 45 days after a petition is filed or an investigation is self-initiated, the ITC would determine whether there is a reasonable indication that injury to a domestic industry by reason of dumped imports exists. If the determination is negative, the proceedings would end.

Within 160 days after a petition is filed or an investigation is self-initiated, the authority would make a preliminary determination, based on the best information available at the time, whether there is a reasonable basis to believe or suspect that dumping exists. In extraordinarily complicated cases, this determination would be made within 210 days.

If the preliminary determination is positive, the administering authority would require bonds or cash deposits to be posted on allegedly dumped imports in an amount equal to the estimated margin of dumping, and continue its investigation. The ITC would initiate an investigation to determine whether injury exists. If the authority's preliminary determination is negative, the administering authority would continue its investigation.

Within 75 days (or 135 days upon request of exporters or petitioners) after its preliminary determination, the administering authority would make a final determination whether dumping exists. If the determination is negative, the proceedings would end.

Within 120 days after the administering authority makes an affirmative preliminary determination, the ITC would make a final determination whether a domestic industry is being materially injured by reason of dumped imports. In a case where the administering authority makes a preliminary determination that dumping does not exist, the ITC final determination on material injury would be made within 75 days after the administering authority's final affirmative determination on dumping. If the final determination of the ITC is affirmative, an antidumping duty order requiring imposition of antidumping duties would be issued within 7 days of the ITC determination.

Suspension of investigations.—An investigation could be suspended prior to a final determination by the administering authority on the issue of dumping if No. 1 exporters accounting for substantially all of the imports of the merchandise under investigation agree to eliminate the dumping, or to cease exports of the merchandise to the United States within 6 months after suspension of the investigation; or No. 2 extraordinary circumstances are present and the exporters described in No. 1 agree to revise prices so as to completely eliminate the injurious effect of the imports of the merchandise under investigation.

The ITC, upon petition, may review an agreement to completely eliminate the injurious effect to determine if that result is accomplished. If the ITC determines that the injurious effect is not eliminated, then the investigation must be completed.

If the administering authority determines an agreement which resulted in a suspension of an investigation is being violated, then the investigation would be resumed and unliquidated imports of the merchandise covered by the agreement would be liable for antidumping duties retroactively if entered on or after the later of 90 days before the date of the affirmative preliminary determination, or the date of the violation.

Miscellaneous.—Deposit of estimated antidumping duties on imports entered on or after the date of an antidumping duty order would be require at the same time deposit of estimated normal duties is required, that is, within 30 days after release of the goods from Customs custody. Final settlement of accounts with Customs on imports subject to antidumping duties would be required for most entries within 12 months after the end of an exporter's or manufacturer's fiscal year within which the imports are entered, or withdrawn from warehouse, for consumption.

Antidumping duties could be imposed retroactively from the date of a final finding of injury, or threat of injury which, but for suspension of liquidation, would have been injury, to the date on which liquidation of entries of imports subject to investigation was suspended, usually the date of the preliminary determination. In "critical circumstances," antidumping duties would be imposed retroactively from the date of a final finding of injury to the date 90 days before the date on which liquidation was suspended. Critical circumstances would exist when the authority determines that (1) (A) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise under investigation, or (B) the importer of the merchandise knew or should have known that dumping was occurring, and (2) that there have been massive imports of the merchandise in a relatively short period, and the ITC determines that the material injury is by reason of the massive imports to an extent that, in order to prevent such material injury from recurring it is necessary to retroactively impose an antidumping duty.

REVIEW OF DETERMINATIONS

At least once during each 12-month period beginning on the anniversary of the date of publication of a countervailing duty or antidumping duty order, or a notice of the suspension of an investigation, the administering authority would review and determine the amount of any net subsidy, review and determine the account of any antidumping duty, an review the current status of, and compliance with, any agreement by reason of which an investigation was suspended.

Whenever, in both antidumping and countervailing duty cases, the administering authority or the ITC receives information concerning, or a request for the review of, an agreement which has resulted in suspension of an investigation or a final determination, which shows changed circumstances sufficient to warrant a review of the suspension or determination, it would conduct such a review. Absent good cause shown, such reviews will not be made before 24 months has elapsed since the notice of the determination or suspension was made.

All reviews, whether by petition, or self-initiated, must include a hearing. Following review, the administering authority could revoke, in whole or in part, a countervailing or antidumping duty order or terminate the suspension of an investigation.

DEFINITIONS; SPECIAL RULES

The following are some key definitions applicable to antidumping or countervailing cases, or both:

Injury.—The injury criteria in the countervailing duty and antidumping statutes would be material injury to, threat of material injury to, or material-retardation of the establishment of, a domestic injury. "Material injury" would be defined as harm which is not inconsequential, immaterial, or unimportant.

In determining whether injury exists, the ITC would consider the volume of, and relative or absolute increases in the volume of, subsidized or dumped imports and their effect in the undercutting, suppressing, or depressing of prices; and the consequent impact of dumped or subsidized imports on domestic producers.

With respect to impact, the ITC would evaluate all relevant factors, including: Actual and potential decline in output, sales, market share, profits, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; and actual and potential negative effects on cash flow, inventories, employment, wages, growth, and ability to raise capital or investment.

With regard to the volume, effect on prices, and impact of dumped imports, no one or several of the factors listed would necessarily give decisive guidance.

Industry.—For purposes of determining material injury in antidumping and countervailing duty cases, the term "industry" would include domestic producers as a whole of a product like the imported articles under investigation, or those domestic producers whose collective output constitutes a major proportion of total domestic production. Producers related to exporters or importers of the dumped product, or which import it, could be excluded. An injury finding could be based on effects in a geographical market if first, producers in a market sell all or almost all their production there, second, demand in the market is not to any substantial degree supplied by producers located elsewhere, third, imports are concentrated in the market, and fourth, producers of all, or almost all, of the product in the market are injured.

Like product.—"Like product" would be defined as a product which is like, or in the absence of like, most similar in characteristics and uses with, the imported article.

Subsidy.—For purposes of the new countervailing duty law, the term "subsidy" would mean the same as "bounty or grant" under existing law, and would include, but not be limited to:

The export subsidies listed in annex A to the agreement relating to subsidies and countervailing measures; and

The domestic subsidies set forth below when provided or mandated by governmental action to a specific enterprise or industry or group of enterprises or industries, whether publicly or privately owned, and whether paid or bestowed directly or indirectly on the manufacture, production, or export of any class or kind of merchandise:

The provision of capital, loans or loan guarantees on terms inconsistent with commercial considerations;

The provision of goods or services at preferential rates;

The grant of funds or forgivement of debt to cover operating losses sustained by a specific industry; and

The assumption of any costs or expenses of manufacture, production, or distribution.

Net subsidy.—The amount of a countervailing duty would be equal to the net subsidy received by the producer, manufacturer, or exporter of the merchandise. The "net subsidy" received would be computed by subtracting from the gross subsidy the following:

Application fees, deposits, and similar payments paid in order to qualify for, or receive, the benefit of the subsidy;

The loss in the value of a subsidy resulting from its deferred receipt, if such deferral is mandated by Government order; or

Export taxes, duties, or other charges levied on the export of the merchandise to the United States specifically intended to offset the subsidy received.

MISCELLANEOUS

Hearings.—The administering authority and the ITC would be required to hold hearings during a countervailing duty or antidumping duty investigation. The hearings would not be subject to the administrative Procedures Act (5 U.S.C. 554, 555, 556, 557, and 702); however, a hearing record would be required.

Verification of information.—Verification of all information relied on by the administering authority in connection with a final determination in a countervailing or antidumping duty investigation would be required. If information submitted could not be verified, then decisions would be made on the basis of the best information available, which may include the information in the petition.

Access to information.—The administering authority and the ITC would keep parties to antidumping and countervailing duty investigations informed of the progress of the investigation. A record would be maintained by the agencies of exparte meetings held during the course of an investigation between interested parties or other persons providing factual information and the person in the respective agency charged with making the determination in the investigation or any person charged with making a final recommendation to that person in the investigation.

Information properly designated as confidential would be maintained in confidence during an investigation, except that the administering authority and the ITC could disclose confidential information received in a proceeding if it is disclosed in a form so that the information cannot be associated with, or otherwise be used to identify, the operation of a particular person. Certain confidential information submitted to the administering authority or the ITC could also be disclosed under an administrative protective order or pursuant to a court order.

Transitional rules for countervailing duty orders.—With respect to countervailing duty orders, in effect on the effective date of the new law, involving countries signing the subsidies agreement, and under which countervailing duties have been waived under section 303(d) of the Tariff Act of 1930, the ITC would determine whether material injury exists' within 180 days after being notified by the administering authority of such a case. The waiver in that case would continue until the determination by the ITC. If that determination is negative, the proceeding would terminate. If it is affirmative, countervailing duties would be imposed.

TITLE II—CUSTOMS VALUATION

METHODS OF VALUATION

The bill would revise section 402 of the Tariff Act of 1930, which specifies the methods for determining the value of an import for purposes of applying ad valorem duties, to make it consistent with the customs valuation agreement negotiated in the MTN. It would also repeal the final list and American selling price methods of customs valuation.

The amended version of section 402 would contain five methods—one primary method and four secondary methods—for determining customs value. The five methods would be arranged in a hierarchical fashion, with an order of priority governing the application of each method. The first, or primary, method, that is, the transaction value of the merchandise, is to be used whenever possible. In cases where it may not be used, the second method is to be used. If customs value cannot be found using the second method, the third method is to be used, and so on. The second, third, fourth, and fifth methods of valuation are, respectively: The transaction value of identical merchandise; the transaction value of similar merchandise; the deductive value; and the computed value. If a value can still not be determined, a residual method of valuation would provide for the value to be determined on a basis derived from one of the first five methods, with reasonable adjustments.

Transaction value.—The primary method of valuation under new section 402 would be the transaction value of the imported merchandise; that is, the price actually paid or payable for the merchandise when sold for exportation to the United States with specified adjustments. The price actually paid would be increased by the amounts attributable to various factors, including "assists", royalties and license fees the buyer is required to pay as a condition of the sale of the merchandise to him, and the proceeds of a subsequent resale, disposal, or use of the imported merchandise accruing to the seller, if those amounts are not otherwise included in the price actually paid or payable. Assists would be defined as items or services supplied directly or indirectly by the buyer of the imported merchandise free of charge or at reduced cost for use in connection with the production or the sale for export to the United States of the imported merchandise.

Transaction value could be used in related-party transactions in appropriate cases. Two alternative tests would be provided for determining whether the transaction value could be used in a related-party transaction. If an examination of the circumstances of sale of the merchandise indicates that the relationship did not influence the price, then the transaction value could be accepted. The second test would compare the transaction value with a set of "test values" to see if the transaction value closely approximates one of the test values.

Transaction value of identical merchandise and similar merchandise.—If the primary valuation method; i.e., the transaction value of the merchandise being appraised, could not be accepted by the Customs Service, then customs value would be determined by sequentially applying alternative methods. The first alternative would be the previously accepted and adjusted transaction value of identical merchandise sold for export to the United States and exported at or about the same time as the goods being valued. The second alternative would be the previously accepted and adjusted transaction value of similar merchandise sold for export to the United States and exported at or about the same time as the goods being valued.

Deductive value.—If the three previously mentioned value standards could not be accepted, the customs value would be determined on the basis of deductive value or computed value, in that order, unless the importer chooses to reverse the order of application of the two standards. The deductive value of imported goods would be determined by subtracting from their resale price in the United States specific elements of value that have been added to the goods; that is, customs duties, selling expenses, etc., to arrive at a value comparable to the transaction value.

Computed value.—The computed value of imported merchandise would be the sum of—

(1) The cost or value of the materials and the fabrication and other processing employed in the production of the imported merchandise;

(2) An amount for profit and general expenses equal to that usually reflected in sales of merchandise of the same class or kind as the imported merchandise that are made by producers in the country of exportation for export to the United States;

(3) Any assist, if not included in (1) or (2) above; and

(4) The packing costs.

Value if other values cannot be determined or used.—The final method of appraisement, to be used only when a value cannot be accepted under any of the previous valuation methods, would be based on a value that is derived from one of the previous methods, with reasonable adjustments to the extent necessary to arrive at a value.

PRESIDENTIAL REPORT

Section 203 of the bill would direct the President to submit a report to Congress as soon as practicable after the close of the 2-year period beginning on the date on which the amendments made by title II of the bill take effect, containing an evaluation of the operation of the customs valuation agreement, both domestically and internationally.

FINAL LIST AND AMERICAN SELLING PRICE RATE CONVERSIONS

The current U.S. valuation system is

composed of two separate cutoms valuation laws, sections 402 and 402a of the Tariff Act of 1930. The standards in section 402a are the valuation standards established in the original Tariff Act of 1930. The Customs Simplification Act of 1956 added a new section 402 to the Tariff Act of 1930 containing additional standards. The original standards are used to appraise only those articles for which dutiable value during fiscal year 1954 would have been 5 percent less under the section 402 standards added in 1956 as compared to under section 402a standards. These articles were determined by the Secretary of the Treasury and are listed in regulations. They are known as the "final list" articles.

The American selling price (ASP) method of customs valuation exists under both sections 402a and 402, and is virtually identical under both sections. The value of the import is based on the selling price of a U.S. manufactured article which is like or similar to the imported article. ASP is used only if required specifically by law. It must be used to value benzenoid chemicals, certain plastic- or rubber-soled footwear, canned clams, and certain gloves.

Sections 222 and 223 of the bill would convert the rate of duty applicable to each article in the tariff schedules of the United States which is on the final list of valued on an ASP basis to a rate providing duty receipts equal to those received under the final list or ASP. ASP and final list would be required.

TITLE III—GOVERNMENT PROCUREMENT

Title III would implement the agreement on Government procurement. The President would be permitted to waive certain "Buy American" restrictions in U.S. law or practice which discriminate against particular products of designated countries. Designated countries would be countries which are parties to the agreement or which provide reciprocal procurement benefits to the United States. This President would be permitted to prohibit Federal Government procurement of products from nondesignated countries. Furthermore, the President would be permitted to withdraw or to limit waivers granted, and, after consultation with the Congress and private sector, to grant new waivers.

The waiver authority would enable the President to waive those portions of U.S. law, most notably the Buy American Act (41 U.S.C. 10a et seq.), which discriminate against purchases of foreign goods by Federal Government agencies. A waiver could only apply to goods which are the products of designated countries. Least developed (poorest) countries could be designated without condition. All other countries would be required to provide reciprocal benefits for the United States in their Government procurement, and major industrial countries would be required to become parties to the agreement in order to be designated.

The annex to the agreement, while not yet finally concluded, indicates those U.S. agencies whose procurement could be subject to waiver of discrimination against foreign goods. Procurement by those agencies accounts for about 15 percent of Federal Government procurement. Contracts of under $190,000 are excepted from the agreement and from the President's waiver authority.

The President would be required to bar Federal procurement of products subject to a waiver from any country which is not "designated." However, he could delay this bar with respect to countries (other than major industrial countries) for up to 2 years; agency heads could waive the bar on a case-by-case basis; and procurement could continue with a country which is a party to a reciprocal procurement agreement with the Department of Defense.

The President would be permitted to reduce or expand the coverage of waivers. However, an expansion of the coverage of a waiver to additional Government procurement by an agency not listed in annex I of the agreement on the date of enactment of the bill would require prior consultations with the Congress and the private sector.

Title III would impose substantial monitoring and reporting requirements with respect to both United States and foreign government procurement practices, and encourage negotiations to expand the agreement to cover more foreign government procurement.

TITLE IV—TECHNICAL BARRIERS TO TRADE (STANDARDS)

Title IV of the bill would provide the statutory framework for United States' implementation of its obligations under the agreement on technical barriers to trade. Many of the practices covered by the agreement, such as notification of proposed standards-related activities and the provision of an opportunity for public comment, are already widely followed in the United States. However, certain of the agreement's provisions, while they are not a departure from current U.S. practice, require implementation through legislation.

Obligations of the United States.—The legislation would not prohibit standards-related activities which do not create unnecessary obstacles to the international trade of the United States. No standards-related activity would be deemed to constitute an unnecessary obstacle to the international trade of the United States if the demonstrable purpose of the standards-related activity is to achieve a legitimate domestic objective, including, but not limited to, the protection of health or safety, essential security, environmental, or consumer interests, and if such activity does not operate to exclude imported products which fully meet the objectives of such activity. United States' implementation of the agreement would not weaken the right of Federal agencies, State agencies, or private persons to engage in standards-related activities which are deemed appropriate and necessary for reasons which are deemed appropriate and necessary for reasons which are established in U.S. law.

Functions of Federal agencies.—The legislation would attempt to avoid the establishment of new Government offices by specifying, wherever possible, the use of existing offices and procedures. Current operations of the Departments of Commerce and Agriculture would be used to implement aspects of the agreement within their expertise. The Office of the Special Representative for Trade Negotiations (STR) would be given increased responsibilities on coordinating the standards-related activities of Federal agencies which affect international trade. STR, U.S. embassies, and, where appropriate, the Departments of Commerce and Agriculture would also monitor foreign implementation of the agreement. Finally, STR and the Departments of Commerce and Agriculture would be responsible for coordinating Federal Government encouragement of State agencies and private persons to observe practices consistent with the obligations in the agreement.

Federal agencies would be permitted to provide technical standards assistance to interested parties. It would also require those agencies to solicit technical and policy advice from the private sector advisory committees established under section 135 of the Trade Act of 1974.

Administrative and judicial proceedings regarding standards-related activities.—Section 421 of the bill would provide that, except as otherwise provided in title IV of the bill, the provisions of the subtitle would not create any right of action under the laws of the United States with respect to allegations that any standards-related activity engaged in within the United States violates the obligations of this country under the agreement. The STR would process representations alleging U.S. violations of the agreement and participate, as necessary, in the settlement of disputes between the United States and other parties to the agreement (parties).

Only parties or countries providing similar rights and privileges to U.S. interests could make representations to the STR alleging violations of U.S. obligations under the agreement. Federal agency proceedings on allegations against standards-related activities covered by the agreement would be permitted only if the STR makes a finding of reciprocity or finds that the agreement dispute-settlement procedures are inadequate.

Definitions and miscellaneous provisions.—Definitions of such key terms as "international standards organizations" and "standards" would be contained in title IV. Miscellaneous provisions would specify persons or intra-agency activities not subject to the subtitle; a provisional effective date for title IV of January 1, 1980; and the required future evaluation of the operation of the agreement by the STR.

TITLE V—IMPLEMENTATION OF CERTAIN TARIFF NEGOTIATIONS

Title V of the bill would provide for the implementation of certain tariff concessions negotiated in the MTN. Many of the tariff changes implemented under this title would involve reductions or increases in rates of duty which exceed the limitations on the President's authority to proclaim a reduction or increase in a rate of duty under sections 101 and 109 or the Trade Act of 1974. In other cases, changes in non-MFN duties or in head-

notes, nomenclature, and classification affecting non-MFN duties would be made. Non-MFN duties can only be changed by statute.

TITLE VI—CIVIL AIRCRAFT AGREEMENT

Title VI of the bill would implement tariff changes required under the agreement on trade in civil aircraft. The President would be permitted to eliminate duties on articles covered by the agreement, for example, airplanes and parts certified for use in civil aircraft. The 50-percent duty on repairs on U.S. civil aircraft performed in foreign countries would also be eliminated.

TITLE VII—CERTAIN AGRICULTURAL MEASURES

Title VII would implement concessions to foreign countries under bilateral agreements relating to cheese, chocolate crumb (a mixture of chocolate and milk solids), and meat. The title would: first, increase the amount of cheese imports permitted under U.S. quotas; second, establish procedures, in lieu of the countervailing duty law, to prevent subsidized cheese imports under quota from undercutting domestic cheese prices; third, increase the existing U.S. quotas on chocolate crumb; and fourth, establish a 1.2 billion pound floor on meat import quotas under the meat import law.

Cheese.—Section 701 of the bill would permit the President to proclaim import quotas, at an annual level up to 111,000 metric tons, on certain cheeses under the authority of section 22 of the Agricultural Adjustment Act, without following the procedures of section 22. The cheese import quotas could be increased above 111,000 metric tons only in accordance with the provisions and procedures of section 22, except that the President could not take emergency action under section 22, that is, without a prior investigation and report by the ITC, unless the Secretary of Agriculture finds that "extraordinary circumstances" exist.

About 85 percent of cheeses now imported would be subject to quotas. Certain specialty cheeses and soft-ripened cheeses (Brie, Camembert, and so on) would not be under quota, but imports of other cheeses would be limited, regardless of their price. Current quotas do not limit imports of several types of cheese, if they are priced above $1.23 per pound. The new quota of 111,000 tons would permit importation of about 15,000 more tons of cheese than was imported in 1978.

Section 702 would provide for imposition of additional import fees or quotas on cheese subject to quotas to the extent necessary to prevent imports from undercutting, through use of subsidies, the wholesale price of comparable domestic cheeses. Action against price undercutting would be required within a maximum of 68 days after a complaint.

Chocolate crumb.—Section 703 of the bill would provide for an increase of about 4,400,000 pounds over the current 21,680,000 pound quota on chocolate crumb. This would accommodate quota allotments to Australia (2,000 metric tons) and New Zealand (2 kilograms) negotiated in the MTN. The nominal allocation to New Zealand would permit that country to export to the United States the amount of quota unused by other countries having significant quota allocations.

Meat.—Section 704 of the bill would amend the meat import law to provide that no quota may be imposed under that law at a level less than 1.2 billion pounds. This would implement MTN commitments to Australia and New Zealand. Under current law, which sets import quotas at a level in direct proportion to domestic production, domestic production would need to decline below 1978 levels before a quota below 1.2 billion pounds could be established.

As a result of an agreement with Canada, the meat import law would also be amended to make certain high quality portion-controlled cuts of beef subject to the restrictions under that law. The total amount of meat imports permitted under the meat import law would not be increased thereby.

TITLE VIII—TREATMENT OF DISTILLED SPIRITS

Title VIII would implement an important concession to major trading partners by eliminating the current "wine-gallon" method of taxing and levying duties on foreign distilled spirits. The tax and duties would be assessed in proportion to alcoholic content (for example, a lower tax on 86 proof than on 100 proof). This title would also increase the duty on distilled spirits of countries not providing adequate reciprocal concessions to the United States and would permit reductions in import duties on distilled spirits from countries providing reciprocal concessions. In the latter case, duties could subsequently be increased to the level of protection prevailing under the tax and duty system in effect on January 1, 1979, if the President finds that trading partners are not implementing their concessions. Finally, title VIII would establish an "all-in-bond" administrative system for collecting excise taxes on domestic distilled spirits and would defer for an additional 15 days, phased in over 3 years, the period for collection of the excise taxes from domestic producers.

Tax treatment.—Title VIII would repeal the wine-gallon method for determining the $10.50 per gallon tax on distilled spirits. As a result, both domestic and imported distilled spirits will be taxed uniformly under the proof-gallon method, which is based upon alcohol content. Title VIII would also provide a one-half month extension in the time period for payment of excise taxes on domestically bottled distilled spirits, to be phased in over a 3-year period.

Other amendments would establish the "all-in-bond" system for controlling the production of distilled spirits and collecting the excise taxes. This would simplify the tax collection process and reduce the number of government employees currently required to collect liquor excise taxes, as well as reduce ancillary capital investment by domestic producers necessary to comply with the current administrative system.

Tariff treatment.—Title VIII would repeal the wine-gallon method of duty assessment and make imported distilled spirits dutiable on the basis of proof gallon, that is atual alcoholic content. Tariff rates on distilled spirits would be converted to rates which would yield the same revenues as are now provided by the wine-gallon method of duty assessment and taxation. For example, the rate of duty on bottled whiskey is currently 51 cents per wine-gallon. This rate would rise to $2.30 per proof-gallon. Of the increase, about $1.70 would reflect conversion to the proof-gallon method of taxation and about 8 cents would reflect the conversion to the proof-gallon of duty assessment.

The new tariff rates would apply to products of countries which fail to provide to United States reciprocal benefits for the wine-gallon repeal. For those countries affording reciprocal MTN benefits, the President would be permitted to reduce the new duty on a proof-gallon basis to the rate now prevailing on a wine-gallon basis, that is, the rate on bottled whiskey could drop from $2.30 to 51 cents per proof-gallon. Until January 3, 1980, the President would also be permitted to reduce the wine-gallon rate by up to an additional 60 percent, that is, from 51 cents to 20.2 cents per proof-gallon, under section 101 of the Trade Act of 1974.

The President would be permitted to raise the duty back to the full measure of protection, that is, $2.30 per proof-gallon on bottled whiskey, if a beneficiary country does not implement concessions granted to the United States. Furthermore, the President would be required to withdraw, suspend, or modify equivalent concessions (but not necessarily the wine-gallon concession) if a foreign country fails to implement concessions benefitting U.S. export interests in distilled spirits.

TITLE IX—ENFORCEMENT OF U.S. RIGHTS

Title IX of the bill would revise section 301 of the Trade Act of 1974 to permit enforcement of U.S. rights under the MTN agreements and to provide a procedure for private parties to request government action to remedy foreign violations of the agreements.

Section 301 of the Trade Act of 1974 permits private parties to complain of foreign violations of international trade rules. It permits the President to impose import restrictions as retaliatory action, if necessary, to enforce U.S. rights against "unjustifiable" or "unreasonable" foreign trade practices which burden, restrict, or discriminate against U.S. commerce.

Title IX would impose time limits on investigations and recommendations by the Special Representative for Trade Negotiations and on Presidential action under section 301. The revision of section 301 would continue the ability of the United States to take "all appropriate and feasible action" within the President's power to obtain the elimination of any acts, policies, or practices which are unjustifiable, unreasonable, or discriminatory and which burden or restrict U.S. commerce. This mandate would cover those actions which may not be specifically covered by international trade agreements or the GATT but

which, in fact, burden or restrict U.S. commerce.

TITLE X—JUDICIAL REVIEW

Title X of the bill would revise current law to provide increased opportunities for appeal of certain interlocutory and all final rulings by the administering authority or the U.S. International Trade Commission in antidumping and in countervailing duty cases. Title X would also expand opportunities for judicial review of determinations by the Customs Service of the appraised value, classification, or rate of duty of imported goods. Furthermore, title X would provide for judicial review of Customs Service decisions regarding the certification of the "country of orgin" of products covered by the Government Procurement Code.

Title X would amend the Tariff Act of 1930 by adding a new section 516A, which would provide the specific judicial review procedures for countervailing duty and antidumping proceedings. Existing section 516 would be amended to delete those provisions dealing with antidumping and countervailing duty determinations, and would solely include procedures for a domestic interested party's contest of appraised value, classification, or the rate of duty of imported merchandise.

Section 516A would establish the standards of review for those countervailing duty and antidumping duty determinations which are appealable. In general, the standard for interlocutory determinations would be whether they are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. The standard for other determinations would be whether they are supported by substantial evidence on the record or are otherwise not in accordance with law. The bill would permit the Customs Court to enjoin, during the period of judicial review, liquidation of some or all entries of merchandise covered by a determination of the administering authority or the ITC during a countervailing or antidumping investigation.

The record before the court, unless otherwise stipulated by all interested parties participating, would consist of all information presented to, or obtained by, the administering authority or the ITC during the course of a countervailing or antidumping proceeding and all Government memorandums pertaining to the case on which the authority relied in making determinations. The record would also include a copy of the determinations sought to be reviewed, all transcripts or records of conferences or hearings, and all notices published in the Federal Register.

TITLE XI—MISCELLANEOUS PROVISIONS

Extension of nontariff barrier negotiating authority, (section 1101)—The President's authority under section 102 of the Trade Act of 1974 to enter into trade agreements to eliminate nontariff barriers and other distortions to trade adversely affecting U.S. commerce would be extended until January 3, 1988. Any agreement would be effective only after congressional consultation and enactment of an implementing bill under the legislative procedures in the Trade Act of 1974.

Auctioning of import licenses (section 1102).—The President would be permitted to auction licenses used to administer quantitative restrictions under the following laws:

Section 125, 203, 301, and 406 of the Trade Act of 1974;

Trading With the Enemy Act;

Section 204 of the Agricultural Act of 1956 (except relating to meat or meat products);

The International Emergency Economic Powers Act;

Authority under the headnotes of the U.S. tariff schedules (except for restrictions imposed under section 22 of the Agricultural Adjustment Act of 1933); and

Any legislation implementing an international agreement, including commodity agreements (except agreements relating to cheese or dairy products).

The auction authority would apply only to quantitative restrictions imposed or modified after the date of enactment.

Private advisory committees (section 1103).—Private advisory committees established under section 135 of the Trade Act of 1974 would be continued for the purposes of first, advising on trade negotiations and insuring effective implementation of the MTN codes; second, evaluating and refining those codes; third, managing problems in key trading sectors; and fourth, advising on overall trade policy objectives and priorities. The mandate of advisory committees would be broadened to include support of implementation of trade agreements and other trade policy activities. The President would be given discretion to establish advisory committees on an appropriate basis when trade policy activities of the U.S. Government warrant them, including committees on services.

The bill would repeal the requirement that existing advisory committees write summary reports of trade agreements entered into under the Trade Act of 1974 after January 3, 1980. The bill would continue exemptions of the advisory committees from provisions of the Federal Advisory Committee Act and would, in addition, exempt agriculture committees from the requirements of title XVIII of the Food and Agriculture Act of 1977.

Study of possible agreements with North American countries (section 1104).—A study by the executive branch of the desirability of entering into trade agreements to promote the mutual economic growth of the United States, Canada, Mexico, and other appropriate countries in the northern portion of the Western Hemisphere would be required. The study would examine the agricultural, energy, and other sectors, and would be submitted to the Committee on Ways and Means of the House and the Committee on Finance of the Senate within 2 years after enactment of the bill.

Section 337 of the Tariff Act of 1930 (section 1105).—A civil penalty would be provided for a violation of a cease and desist order issued by the U.S. International Trade Commission under section 337 of the Tariff Act of 1930. Section 337 permits the ITC to issue a cease and desist order with respect to unfair trade practices in the importation of a product. The penalty would be a maximum of the higher of either $10,000 or the market value of the goods in question for each day in which an importation or sale of goods occurs in violation of the order. The penalty would be recovered in a civil action brought by the ITC.

Section 337 would be further amended to make clear that the statute does not cover actions within the purview of the countervailing duty law or the antidumping law. The ITC could suspend that part of an investigation under section 337 which related to such actions.

Reporting statistics on a cost-insurance-freight (CIF) basis (section 1108).—Import and balance-of-trade statistics. Also, there would be required publication of all tariff rates showing the rates which would be in effect if customs valuation were on a CIF rather than the current basis.

Reorganizing and restructuring of international trade functions of the U.S. Government (section 1109).—The President would be required to submit proposed legislation restructuring the foreign trade policymaking and regulatory functions of the Federal Government by July 10, 1979. In order to insure that the 96th Congress takes final action on a comprehensive reorganization of trade functions as soon as possible, the appropriate committee of each House of Congress would give the legislation proposed by the President immediate consideration and would make its best efforts to take final action on a bill to reorganize and restructure the international trade functions of the Government by November 10, 1979.

Study of export trade policy (section 1110).—On or before July 15, 1980, the President would submit to the Congress a study of the factors bearing on the competitive posture of U.S. producers in world markets and the policies and programs required to strengthen the relative competitive position of the United States in world markets. This study would also include recommendations on the promotion of U.S. exports generally, and exports by small business particularly, and on the disincentives to exports created by the programs and activities of regulatory agencies.

Generalized system of preferences (section 1111).—The generalized system of preferences (GSP) under title V of the Trade Act of 1974 would be modified as follows:

The President would be permitted to continue GSP treatment for eligible articles, and to designate new eligible articles, from beneficiary developing countries which exceed the competitive need limitation; that is, no more than 50 percent of total annual U.S. imports of an article eligible for GSP may come from one country, if total imports of the article are less than $1 million (adjusted annually to reflect changes in the GNP).

The customs union rule which permits such entities to be considered a single country, for GSP, would be changed:

To permit associations of countries contributing to comprehensive regional economic integration among their members to be designated as a single beneficiary developing country;

To permit application of the competitive need ceilings on GSP treatment (total annual imports of an eligible article from any one country may not exceed about $37 million, or 50 percent of total U.S. imports of the article) for a specific article from an association of countries described above to the individual member countries of such an association rather than to the association as a whole; and

To reduce the minimum value-added requirement for GSP articles from such an association from 50 percent to 35 percent, the requirement applicable to individual countries.

The exclusion of OPEC member countries from GSP would be modified to allow extension of GSP treatment to eligible articles from OPEC countries otherwise qualifying as beneficiary developing countries if they:

Conclude bilateral product-specific trade agreements with the United States in the MTN, and

Continue to supply petroleum to the United States.

Concession-related revenue losses to U.S. possessions (section 1112).—If a concession is granted in the MTN with respect to a product upon which excise taxes are levied which produced in 1978 a major share (10 percent or greater) of the revenues for the government of a U.S. possession, then the Secretary of Commerce, with respect to fiscal year 1980 and the next 4 fiscal years, would determine within 3 months after the close of the fiscal year whether the concession contributed importantly to a loss of such revenues to the possession in the fiscal year concerned as a result of displaced sales of the product. In making this determination, the Secretary would examine the extent to which any other factors are contributing to a loss of such revenues.

If the Secretary determines a reduction in revenue exists, then the President could add to the budget amounts to be appropriated to the possessions concerned to offset in whole or in part the excise tax losses.

Mr. President, I urge the Senate to approve H.R. 4537.

ORDER OF PROCEDURE TODAY

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time to urge that, if at all possible, we act on both trade bills today and complete the food stamp bill.

I have said early on that we would not be later than 6 or 6:30 on Mondays, but I think we also have to keep in mind that a holiday is coming up. We spent last Saturday in session because of the exigencies of the situation.

So it may be necessary to go later into the evening, even though it is Monday.

I would rather not carry the food stamp bill over. The bill we are on now, the trade bill, is not amendable. It cannot be recommitted. There is a 20-hour statutory time limit on it, but there is also built into the statute a nondebatable motion to reduce that time.

So a motion can be made to reduce the time, and it will be made, if necessary, to reduce the time; and it can be reduced to any point—1 hour, 2 hours, or whatever. I do not want to make that motion, because I want to cooperate as much as possible.

I thought I should take the floor at this time to state that my comment early on to get out at 6 or 6:30 on Mondays might have to be broken in this instance.

I hope we can vote on this trade bill no later than 4:30 p.m. today, if at all possible. Then we could finish the food stamp bill.

Mr. BAKER. Mr. President, will the Senator from Connecticut yield?

Mr. RIBICOFF. I am pleased to yield.

Mr. BAKER. I thank the Senator from Connecticut.

Mr. President, I, too, hope we can dispose of this matter promptly. However, I point out that there are colloquies to be undertaken and statements yet to be made. We are not now in a position to offer, by unanimous consent, a shortened time on this measure.

Obviously the majority leader can make his motion, if he wishes, but I hope we will proceed for a while and see how the situation develops further. If we have to stay beyond 6:30, I suppose we will.

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

Mr. RIBICOFF. I yield.

Mr. HEINZ. Mr. President, I think the majority leader knows that there are at least two colloquies. One is mine, and the other is Senator DANFORTH's. He and I will try to keep them as brief as possible.

In fairness to Senator DANFORTH, I ask that the Senator from West Virginia not make such a unanimous-consent request at this time.

Mr. ROBERT C. BYRD. I will not make such a request.

Mr. RIBICOFF. I say to the majority leader that we have worked on these colloquies, and I think they are in good order. Once the distinguished Senator from Pennsylvania and the distinguished Senator from Missouri start with their colloquies, my feeling is that we can dispose of these matters in short order.

Mr. ROBERT C. BYRD. I thank the distinguished chairman.

Mr. RIBICOFF. Mr. President, I want to pay special tribute and give thanks to Arthur House and Harold Luks of my personal staff. From the beginning and throughout this entire bill, they have been deeply involved with me and the committee staff in working on all trade policy matters. Their research and input have been helpful and constructive not only to me but also to the entire Finance Committee and the subcommittee.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 45 minutes to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, at the outset, I commend the managers of the bill, Senator RIBICOFF and Senator ROTH, for their very creative and outstanding leadership in bringing this measure over an innumerable number of legislative hurdles to what I believe is a very successful conclusion.

It has been a long and occasionally difficult experience reaching the point where we are today; but the process has produced, in my judgment, an honorable compromise between those of us concerned about free and fair trade and those concerned only with free trade. Let me make it clear that I am in the former group. I support free trade principles and favor expansion of trade to the maximum extent possible. We have an international economy and cannot wall ourselves off from it. Nor should we want to—for trade inevitably means jobs and profits for Americans.

At the same time, however, in our pursuit of trade expansion, we should not abandon our free market principles and our reliance on competition and the law of comparative advantage as arbiters of the marketplace. Our allies and trading partners, some of them with a completely different economic heritage, are increasingly sacrificing those principles, to the extent they have ever honored them, to domestic social or political exigencies. The result is more subsidized and dumped goods coming into this country as our trading partners seek to maintain their own employment levels and take advantage of the relative openness of our economy.

It is precisely these unfair and, from the standpoint of classic economic theory, trade restricting practices I seek to control. That these practices exist is unquestioned. That they go on unhindered is easily demonstrated. Rather than go into this in detail now, as I have done on previous occasions, Mr. President, I ask unanimous consent that material prepared at my request by the Ad Hoc Subsidies Coalition be placed in the RECORD at this point.

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

ADMINISTRATION OF THE COUNTERVAILING DUTY STATUTE BY THE TREASURY DEPARTMENT

In response to the request of Senator Heinz at the International Trade Subcommittee's hearings on February 22, 1979, the Ad Hoc Subsidies Coalition of 33 organizations herewith submits the details of our charges regarding the Treasury Department's administration of the countervailing duty statute.

We find that the Treasury Department has been guilty of the following practices:

1. Treasury has missed statutory deadlines.

2. Treasury has reduced the calculated amount of a subsidy, and hence the countervailing duty, in questionable ways.

3. Treasury has accepted unverified information from foreign representatives as a basis for its determinations.

4. Treasury has changed rulings without adequate opportunity for interested parties to comment.

5. Treasury has stretched the authority of

the Trade Act of 1974 with regard to the granting of waivers. These charges are detailed in the following sections.

1. Treasury Has Missed Statutory Deadlines.

One of the important changes intended to strengthen the countervailing duty statute as incorporated in the Trade Act of 1974 was the 12 month time limit established for the Treasury Department's consideration of countervailing duty petitions.

This time limit was established as part of the legislative "deal" which gave the Secretary of the Treasury authority to waive countervailing duties under certain circumstances. Under the amendment, the Treasury Department has six months from the time of receipt of a valid petition to make a preliminary determination with respect to the existence of foreign countervailable practices and then it has an additional six months in which to make a final determination. Notwithstanding the statutory time limits, Treasury has missed deadlines, particularly for preliminary determinations which deadlines are consistently missed as in the case of Swedish rayon staple where the preliminary determination came three months after the six-month deadline.

Two cases in particular come to mind, one involving Argentine leather apparel where the statutory deadline for a final determination was January 21, 1978 and the other involving Argentine footwear, where the deadline was February 11, 1978. The decisions on both products were finally issued on January 17, 1979; that for leather apparel was negative and the decision on Argentine footwear was affirmative. Thus, Treasury took twelve months and eleven months longer, respectively, than mandated in the statute to make its determinations in these two cases.

The effect of failing to make determinations within the statutory deadline is to deny petitioners due process, particularly where considerable time has elapsed since the deadline. Thus, when an affirmative decision is finally made, petitioners have suffered from Treasury's failure to institute countervailing duties earlier. When a negative determination is finally made, a petitioner has been denied the opportunity to challenge such determinations at an earlier date, in accordance with Section 516 of the Tariff Act of 1930, as amended.

Even a simple publication in the Federal Register of a notice of appeal of Treasury's countervailing duty determinations encounters unnecessary delay despite the provision in Section 516(d) of the Tariff Act of 1930 that such publication be made upon receipt. On December 15, 1978 the Amalgamated Clothing & Textile Workers Union filed with Treasury notice of its intent to appeal six such determinations. Treasury did not publish notice to this effect in the Federal Register until February 27, 1979. The appeal process cannot move forward without such notice. Once again due process has been delayed by Treasury.

2. Treasury Has Reduced the Calculated Amount of a Subsidy, and Hence the Countervailing Duty, in Questionable Ways.

Treasury has pursued a policy which they justify as provided for in the countervailing duty statute of reducing the gross amount of subsidy by various offsets. Although in most cases the reductions are in the form of indirect taxes related to the product which receives the subsidy, Treasury has found some rather exotic items with which to reduce the subsidy. These include, in the case of the waiver on handbags from Colombia, the effects of the devaluation of the foreign currency on the grounds that the Colombian Government allows as much as nine months to elapse before subsidies are paid.

In this case Treasury even reduced the subsidy by the cost of the interest on the money not received by Colombian handbag producers and exporters during this nine-month period. Treasury describes this offset in the Federal Register of May 2, 1978 as "the present value effect of the (exporter's tax certificates) resulting from the inflationary impact on . . . delayed payment." Furthermore, since these exporter's tax certificates are sold in the Bogota Stock Exchange, Treasury also allowed a "discount paid by holders of (exporter's tax certificates) in the stock exchange, thus effectively not providing full value of the (exporter's tax certificates) once sold." It is interesting to note that several of these offsets were disallowed in a more recent case involving Colombian textiles and apparel, but Treasury has not bothered to go back to its earlier decision to recompute the countervailing duties on Colombian handbags. The Colombian handbag case is not untypical.

It is so important to recognize that the reductions which Treasury makes in the subsidy through subtracting the indirect taxes related to the products ignore completely the fact that in virtually all of the foreign countries concerned these indirect taxes would have been borne by the manufacturer even in the absence of the subsidy program, and that the subsidy program clearly is intended to give the foreign manufacturers an edge in selling to the U.S. This is exactly what the countervailing duty statute is aimed at offsetting, but Treasury nevertheless goes on deducting these indirect taxes to the point where many negative or de minimis determinations result or the countervailing duty is significantly smaller than it should be.

3. Treasury Has Accepted Unverified Information From Foreign Representatives as a Basis For Its Determinations.

Treasury makes most of its determinations with regard to the size of a countervailing duty or a waiver of a countervailing duty on the basis of data submitted by foreign governments and by foreign firms or associations of firms. In neither case are the data verified by Treasury. Admittedly, it is difficult for Treasury to verify data submitted by foreign interests, but at least an effort should be made to assure the American petitioner that, indeed, the data on which a determination is made by Treasury are reliable. Treasury says that it must take the word of a foreign government. Yet in a case involving Argentine footwear, the word of a foreign government was not good enough. It reneged on a commitment which had been made to Treasury. In that particular case, Treasury said "but they had a change of governments in Argentina." Unfortunately the new government in power did not bother to advise Treasury that it had reversed the commitment made by its predecessors, and Treasury did not reopen this case for a considerable period of time after the subsidies were reinstated. When Treasury finally acted five and a half years after the initial petition was filed, it imposed a countervailing duty of less than 1 percent.

As the result of a request through the Freedom of Information Act, it has been learned that although Treasury waived countervailing duties on Uruguayan handbags and footwear at the end of January 1978 based on certain assurances from the Uruguayan Government, the factual information on which to base the waiver was not available to Treasury at the time of the waiver action. On May 15, 1978 the Minister of the Uruguayan Embassy in Washington was told by Treasury that in October 1977 Treasury had requested of the Uruguayan Government "a detailed description . . . of the laws providing for the various offsets accepted by Treasury . . . as well as a detailed itemization of how the offsets were calculated for each of the product sectors." That had not yet been furnished by the Uruguayan Government as of mid-May 1978.

Treasury pointed out that the Uruguayan Government had promised in December 1977 to furnish by the following month "a detailed enumeration of the program to eliminate the entire 'reintegro' system by 1983. . . ." That, too, had not been furnished by the Uruguayan Government by mid-May 1978.

Apparently a copy of the December 28, 1977 decree of the Uruguayan Government reducing the "reintegro" was also not submitted in January 1978 before Treasury waived the countervailing duties. At least Treasury was still inquiring about it from the Uruguayan Government in mid-May 1978.

4. Treasury Has Changed Rulings Without Adequate Opportunity For Interested Parties to Comment.

Even when Treasury once announces a net subsidy, taking into account the reduction for indirect taxes, it continues to amend those calculations mostly on the downside based upon new information which it receives from the foreign government. For instance, in the case of Spain, Treasury announced a 4 percent countervailing duty on unwrought zinc in April 1977. In June 1978, Treasury reduced the existing countervailing duty on zinc and on several other Spanish products subject to U.S. countervailing duties by revising its method for calculating indirect tax subsidy offsets. This action was taken after consultation with Spanish authorities but without consultation with U.S. industries involved. Despite the controversy Treasury aroused over the basis for this reduction, Treasury reduced the countervailing duty but without suspending the liquidation of entries until all views could be heard.

Treasury later realized the views of the U.S. industries had merit and that it had made a mistake on its revised method for calculating the countervailing duties. Six months later Treasury reverted to the basis of calculations it used prior to June 1978 with the effect that the countervailing duty was now raised again, although not quite to the original levels.

In the interim, between June 15, 1978 and January 17, 1979, because Treasury had not suspended the liquidation of entries on Spanish zinc, nonrubber footwear, and bottled olives, importers benefitted from a lower rate of countervailing duty which gave them a windfall they certainly did not merit.

It is of interest to note that the American Footwear Industries Association had requested Treasury to reconsider and revise upward the 3 percent countervailing duty on Spanish footwear some four years ago. It has never received a reply to its request.

While Treasury acted speedily, without consultation with domestic industry, to reduce duties in the Spanish cases, and without suspension of liquidation, it took Treasury almost five months to revote a waiver and institute a countervailing duty in a case involving Uruguayan leather apparel and almost eleven months to revote waivers on Uruguayan footwear and handbags. (The waiver action on leather apparel is discussed more fully below.) But in these cases where Treasury was acting to impose duties, it suspended liquidation of entries to give the Uruguayan Government more time to protest Treasury's action.

Thus, on the downside, Treasury appears to act with haste, but on the upside, Treasury clearly takes its time.

5. Treasury Has Stretched the Authority of the Trade Act of 1974 With Regard to the Granting of Waivers.

The Trade Act and the temporary four-year waiver authority which expired January 3, 1979, provided the Secretary of the Treasury with authority to waive the imposition of countervailing duties when he determines that:

1. adequate steps have been taken to reduce substantially or eliminate the adverse

effect of the bounty or grant on domestic producers;

2. that there is a reasonable prospect that trade agreements to reduce or eliminate nontariff barriers will be entered into; and

3. the imposition of countervailing duties would be likely to seriously jeopardize the satisfactory completion of such negotiations.

Treasury Department officials have consistently interpreted these three criteria—all of which must exist before a waiver can be issued—so loosely as to permit them to justify any action administratively decided upon.

In one case, involving the imposition on January 12, 1976 of a 14 percent countervailing duty on Brazilian handbags, the Secretary of the Treasury undertook subsequently to waive this duty as part of a "package agreement" on trade issues which he personally negotiated during a visit to Brazil in May 1976. That waiver on Brazilian handbags was made effective July 1, 1976. Can it be said that at that time there was a "reasonable prospect" that successful trade agreements were to be entered into? Could it have been said in May 1976 that the imposition of the additional duty was "likely to seriously jeopardize the satisfactory completion of such negotiations? Hardly, on both counts.

A recent glaring example of a new horror story is that related to Treasury's finding that Uruguayan subsidies on leather wearing apparel were equivalent to 12 percent of the f.o.b. price for export to the United States.

In its final determination issued January 30, 1978, Treasury noted an intent to waive the imposition of countervailing duties on the basis that it had received assurances from Uruguay of a phase-down of only one subsidy—the "reintegro" program of cash rebates which alone amounted to 20 percent or more of the value of the goods exported. However, because leather wearing apparel from Uruguay entered the United States free of duty under the Generalized System of Preferences, the International Trade Commission was called upon (as required by Section 303(b) of the Trade Act) to determine whether Uruguayan subsidies on leather wearing apparel injured the United States industry. Following a comprehensive investigation, the ITC in April 1978, announced a unanimous injury finding. Nonetheless, even in the face of such a unanimous decision by the Commission with respect to the subsidized Uruguayan leather apparel, the Treasury Department carried out its planned waiver, which was duly announced in the Federal Register of June 30, 1978.

Treasury justified its waiver on the basis of Uruguayan assurances that it would phase out its major "reintegro" subsidy program by January 1, 1979. In agreeing to waive the countervailing duty on this basis, Treasury did not require the Government of Uruguay to reduce or eliminate other countervailable trade practices which the Treasury had determined to exist in Uruguay. Treasury's justification for permitting a waiver while the Uruguayans would leave these subsidies intact, was that they were very small, perhaps in the order of 2 percent, whereas the major subsidy program, which provided a subsidy of at least 20 percent, was netted down to around 12 percent.

The domestic industry argued with Treasury officials that they were ignoring an additional subsidy benefitting Uruguayan tanners equal to 8 percent of the value of the leather content in various products exported. Treasury decided differently. However, more recently, Treasury discovered that, indeed, it had made a mistake and that the 8 percent subsidy on the leather content of products exported to the United States was a countervailable duty. Thus, instead of a residual of 2 percent after the scaling down of the major subsidy, Treasury found that the remaining subsidy on Uruguayan leather apparel added up to a total of 13.3 percent. It decided to impose this subsidy effective November 13, 1978 and revoked its former waiver.

Even after Congress failed to extend the countervailing duty waiver authority last October, Treasury went ahead and waived the countervailing duty of almost 38 percent on Brazilian textiles and apparel on assurances that subsidies would be reduced by half by January 1, 1979 and by the remaining half by January 1, 1980. In the interim of one year, Brazil is being allowed to continue subsidies of a substantial amount without having countervailing duties applied, to the detriment of American firms and workers.

CONCLUSION

The foregoing documents what our group considers to have been a mismanagement of the countervailing duty program by the Treasury Department. This record does not support the assertion of the Secretary of the Treasury to the Joint Economic Committee on January 31, 1979 that Treasury does its "best to administer the statute fairly and efficiently." It is for these reasons that our group of 33 organizations believes that the administration of the countervailing duty statute should be removed from the Treasury Department.

THE RECORD OF ENFORCEMENT OF THE U.S. COUNTERVAILING DUTY LAW

The following examples of Treasury Department's inaction in the face of clear cut evidence of foreign export subsidy practices show that Treasury has failed to discharge its obligation under the countervailing duty law to protect the domestic economy and domestic industry from this form of unfair trade practice.

1. In the mid-1960's Treasury received detailed information on Japanese export subsidies from the American Embassy in Tokyo. In part, that information was contained in a lengthy airgram in 1966 entitled "Japanese Export Promotion Techniques" which were summarized as follows:

"The Japanese Government promotes exports by offering a comprehensive system of inducements entering on (1) favorable tax treatment, (2) special financial treatment, (3) a complete export insurance system, and (4) the supporting services of the Japan External Trade Organization (JETRO)."

The Table of Contents of that airgram is attached.

Although this document was unclassified Treasury and States sought to suppress it. Treasury failed to initiate countervailing duty action, yet it saw no obstacle to self-initiating countervailing duty action in 1968 against a wide variety of products, from France. The adverse consequences of Treasury's failure on the U.S. economy and on U.S. industries has been enormous, including the loss of large segments of the American consumer electronics industry and the industrial fastener industry.

Both Zenith and Magnavox brought countervailing duty actions against Japan's export aids in the early 1970's, but Treasury in effect said the complainants were "too late", inasmuch as the benefits had already been received and countervailing duties could not be retroactively assessed.

2. In 1969 Treasury Department countervailed a variety of steel products (including nuts and bolts) from Italy pursuant to a complaint filed by U.S. Steel. T.D. 69-113. In the course of its investigation, Treasury received documentation of the fact that Italian government was subsidizing the export of steel screws to the United States. Again, Treasury turned a blind eye, because U.S. Steel did not include that item in its complaint. The U.S. fastener industry learned about the Italian subsidy in 1975 and responded with a countervailing duty complaint, but most of the damage had already been done.

3. In February, 1978 Japan adopted the High Yen Measures Law designed to compensate exporters for any losses resulting from the appreciation of the yen. Medium-sized and smaller businesses are eligible within 150 designated industries. About 40 percent of Japan's exports come from medium-sized or smaller businesses. Treasury has known about this for some time but has taken no action even though the United States has a $12 billion trade deficit with Japan. A Citizen's Complaint was filed in February, 1979, with respect to ten product groupings. Treasury has refused to initiate an investigation even though it concedes that the complaint meets all of the requirements in the countervailing duty regulations.

AIRGRAM

To Department of State.

Info AmEmbassy Tokyo (4 copies); AmConGen KOBE/OSAKA/YOKOHAMA; AmConsul FUKUOKO/SAPPORO.

Pass From Department of Commerce (6 copies); AmConsul NAGOYA.

Date March 4, 1966.

Subject Japan's Export Promotion Techniques.

Ref Nagoya's A-2 of July 19, 1965.

SUMMARY

1. Favorable tax treatment.
A. Reserve for Foreign Market Development.
B. Small and Medium Enterprise Reserves for Foreign Market Development.
C. Special Depreciation Allowances.
D. Reserve for Overseas Investment Losses.
E. Special Exemption for Technical Exports.
F. Entertainment Expenses for Buyers.
G. Tariff Refund for Exporters.
2. Special financial treatment.
A. Export Financing System for Cooperatives.
B. Export Bill Trade System.
C. Foreign Exchange Fund Loan System.
D. Japan Export-Import Bank.
E. Overseas Economic Cooperation Fund.
F. Japan Development Bank.
G. Export Promotion Loan System for Designated Smaller Enterprises.
3. Export insurance systems.
A. Ordinary Export Insurance.
i. Individual Insurance:
a. For the Exporter;
b. For the Manufacturer; and
c. Against Increased Costs.
ii. Group Floater Insurance.
B. Export Price Insurance.
C. Export Bill Insurance.
D. Export Loan Insurance.
E. Consignment Sale Export Insurance.
F. Overseas Advertisement Insurance.
G. Insurance on Principal of Overseas Investments.
H. Insurance on Interest from Overseas Investments.
I. Distribution Pattern of Export Insurance.
4. Japan External Trade Organization (JETRO).
A. Market Research.
B. Advertising of Japanese Export Products.
C. Design Improvement.
D. Credit Investigation Services.
E. Domestic Services.
F. Budget.
Annex: Japanese Laws Relating to Trade Promotion Activities.

Mr. HEINZ. It is clearly the intent of the MTN agreements, the subsidies and antidumping codes in particular, to discourage these practices and to restore

free market principles to international commerce. To the extent the codes work, our Nation will be the major beneficiary, as other nations will have to conform their uncompetitive practices more closely with our present practices.

It is imperative, however, that we help the codes along through a careful drafting of our own implementing legislation that will insure our unfair trade laws are fully and fairly enforced. To that end, Senators MOYNIHAN, DANFORTH, BENTSEN, and myself have sought to build into S. 1376, which is identical to H.R. 4537, a number of fundamental principles:

First, a broad definition of subsidy, including both export and domestic subsidies, so that unfair practices will have to be investigated rather than defined out of existence;

Second, a clear and rigorous method of calculating a subsidy to insure the amount determined accurately reflects the full benefit to the producer;

Third, a standard of injury no more difficult to meet than the present one;

Fourth, strict limits on discontinuing or suspending investigations pursuant to deals with foreign governments or producers;

Fifth, significantly shorter investigatory timeframes to prevent delays and insure relief is timely;

Sixth, fair and transparent procedures so that the rights of all parties are clearly identified and fully protected;

Seventh, reorganization of the Government's trade functions to better consolidate authority and coordinate policy, including removal of enforcement authority for countervailing duty and antidumping cases from the Treasury Department.

Though we did not fully achieve our goals, as manifested in S. 538 and S. 223, introduced by Senator MOYNIHAN and myself, and Senators DANFORTH and BENTSEN, respectively, we achieved a significant part of what we sought, and as a result are in a position to support the bill.

I would, however, like to make some specific comments on a number of the key points of controversy in this bill, points which have occupied large portions of my time and the committee's time.

Although I support the bill and feel that Senator MOYNIHAN and I succeeded in putting into it language to adequately codify the principles I have mentioned, there are some aspects of the revised countervailing duty and antidumping laws, particularly the definitions, which would benefit from clarification and reinforcement.

INJURY

The injury test engendered as much controversy as any single issue in this bill. The U.S. agreement to accept an injury test for countervailing duty cases is the most significant concession we made in the MTN. It is a concession I disapprove of in principle, because a subsidy is inherently an unfair practice and should be treated as such, regardless of the injury issue. To countervail only in those cases of injury to the domestic industry is to permit subsidies and other unfair practices to exist untouched to the ultimate detriment of free market principles in general and our economy in particular.

Nonetheless, the concession was made, and the committee's task became that of constructing an appropriate and fair definition of injury, one which could be easily met by domestic industry but which truly reflected injury. This task was made more complicated by the fact that the relevant existing standard used in the Antidumping Act of 1921 is defined not in statutory language but through an extended legislative history and series of case decisions going back more than 50 years. To detail that history somewhat, Mr. President, I ask unanimous consent that excerpts of a memorandum prepared by Frederick L. Ikenson be printed at this point in the RECORD.

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

MEMORANDUM

It is clear from the relevant statutory language, legislative history, case law, and administrative precedents that the "injury" test in the Antidumping Act was not intended by Congress to be a rigorous one.

Prior to the enactment of the Trade Act of 1974, § 201(a) of the Antidumping Act, as codified in 19 U.S.C. § 160(a) (1970), provided:

"(a) Whenever the Secretary of the Treasury (hereinafter called the 'Secretary') determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States or elsewhere at less than its fair value, he shall so advise the United States Tariff Commission, and the said Commission shall determine within three months thereafter whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. The said Commission, after such investigation as it deems necessary, shall notify the Secretary of its determination, and, if that determination is in the affirmative, the Secretary shall make public a notice (hereinafter in sections 160–173 of this title called a 'finding') of his determination and the determination of the said Commission. For the purposes of this subsection, the said Commission shall be deemed to have made an affirmative determination if the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative. . . ."

The clear purpose of this legislation was "to protect the producers of the United States against actual or threatened demoralization of American markets . . ." *Ellis K. Orlowitz Co.* v. *United States*, 47 Cust. Ct. 583, 587, A.R.D. 136 (1961), *aff'd*, 50 C.C.P.A. 36, C.A.D. 816 (1963). *Accord, Timken Co.* v. *Simon*, 539 F.2d 221 (D.C. Cir. 1976); *J. C. Penney Co.* v. *United States Department of the Treasury*, 319 F. Supp. 1023, 1024 (S.D. N.Y. 1970), *aff'd*, 439 F.2d 63 (2d Cir.), *cert. denied*, 404 U.S. 869 (1971); *SCM Corporation* v. *United States (Brother International Corporation, Party-in-Interest)*. 80 Cust. Ct. 226, C.R.D. 78–02 (1978); *City Lumber Co.* v. *United States*, 64 Cust. Ct. 826. A.R.D. 269, 311 F. Supp. 340 (1970), *aff'd*, 59 C.C.P.A. 89, C.A.D. 1045, 457 F.2d 991 (1972).

That Congress did not intend the "injury" test in the statute to be a rigorous one is readily demonstrated by an examination of the statutory language itself. The Act has never contained a "substantial injury" standard. There is not even a requirement of actual injury, as the statute specifies that the mere likelihood of injury or prevention of establishment of an industry is sufficient. The causative factor need not be imported merchandise *sold* at less than fair value but could be imported merchandise *likely to be sold* at less than fair value. Further, in the event of a tie vote by the voting Commissioners, an affirmative determination will be deemed to have been made.

The legislative history is no less clear in revealing the Congressional intention that the threshold of injury required to trigger the Act is that quantum of injury (actual or threatened) which is merely more than *de minimis*. When the antidumping bill, H.R. 2435, 67th Cong., 1st Sess. (1921), first passed in the House of Representatives, there was no injury requirement. *To be susceptible to dumping duties, it was sufficient for imported dumped goods merely to be in competition with goods made or produced wholly or in part in the United States.*

At the Senate Finance Committee Hearings on H.R. 2435, the first witness, John E. Walker, Chief, Legislative Drafting Service, U.S. Senate, was critical of the House bill. He stated (*Hearings on H.R. 2435 Before the Senate Comm. on Finance*, 67th Cong., 1st Sess. 12 (1921)):

"The first question that arises is a question of policy as to whether or not the antidumping title should be applied to all merchandise. As the bill is drafted now it is the duty of the appraisers to look for dumping in the case of every importation of merchandise, whether there is dumping or not.

"In the case of all consignment sales—that is, sales in which the selling price is not agreed upon until after the article is entered in the United States—the importer must give bonds that in case an antidumping duty is imposed that he will later pay the additional duty. The question immediately arises whether or not some administrative officer like the Secretary of the Treasury should have authority to direct the appraising officer to apply the antidumping title when the Secretary finds that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation into the United States of foreign merchandise, and that such merchandise is being sold or is likely to be sold in the United States at less than its fair value.

"To require the appraisers to look for dumping in the case of every importation is going to put a very heavy administrative burden upon the force of the customs service." [Emphasis added.]

Mr. Walker proposed a change in language and in concept which was ultimately accepted by the Committee and reflected in the Senate version of the bill. The investigatory responsibility was shifted from the local appraising officials to the Secretary of the Treasury.

In the report of the Committee on Finance, S. Rept. No. 16, 67th Cong., 1st Sess. 10 (1921), the following informative comment was made:

"The amendment proposed in Title II relating to antidumping is a substitute for Title II of the House bill with the exception of section 214.

"The House bill made it necessary for the appraising officers to look for dumping in the case of each importation of merchandise and in the case of merchandise procurred otherwise than by purchase required a bond of the importer that would obligate him to furnish the collector upon the sale of the merchandise the selling price of the merchandise and to pay any additional dumping duties that might be found due. It is the opinion of your committee that the House provision is too drastic and places too great a burden upon the administrative

officers of the customs service and upon the importer. It is also the opinion of your committee that it is unnecessary to make each appraising officer look for dumping in the case of every importation and that it is unreasonable to require the various appraising officers to determine the comparability of each class of merchandise together with the foreign market value and the purchase price in each case, regardless of whether or not an industry is being injured or is likely to be injured by such importation. It is believed that the dumping of merchandise into the United States can be prevented by imposing the dumping duties upon merchandise in cases in which the Secretary, after due investigation, has instructed the appraising officers to apply the antidumping provision.

"The antidumping title of the proposed amendment is so drafted that it will apply only in cases in which the Secretary of the Treasury, through such agency or agencies as he may designate, determines that the importation of dutiable or free foreign merchandise is injuring or is likely to injure an industry in the United States and that such foreign merchandise is being sold or is likely to be sold in the United States or elsewhere at less than its fair value. It is manifest that the determination of whether or not an industry is being injured or is likely to be injured should not be placed in the hands of the individual appraising officers at the various ports of entry. See section 201 of the proposed amendment."

This legislative history was cited and discussed by this Court in *Orlowitz, supra,* wherein the Court approved a very liberal construction of the term "industry" as it appears in the Antidumipng Act. The Court there stated (47 Cust. Ct. at 590):

"* * * After prolonged consideration of a bill that would have authorized each appraiser to find, as to each importation before him for appraisement in his own district, whether the merchandise was being 'dumped,' in the statutory sense, and passage of that bill by the House, there came out of the Senate a bill designed to relieve the individual appraising officers of this administrative burden and vest authority to find the fact of 'dumping' and of resultant injury in the Secretary of the Treasury (now the Tariff Commission). *There was no suggestion, as we read the Senate proposal and proceedings, of intention either to limit or enlarge the concept of 'injury' intended in the House bill, where the mandate was to each individual appraising officer in his own district. Mere intention to improve administration is not persuasive of an intention to change the scope of the law. The clearly expressed intention was to facilitate administration, and no intention was expressed other than to do that. This is persuasive of a legislative intention that the basic objectives were not to be changed.*" [Emphasis added.] Subsequently, the Court observed that the intent in the House bill, "was for each appraiser to determine the fact of injury as to each separate importation." 47 Cust. Ct. at 590. Thus, it is significant to note that the Court viewed the proposed function of the appraisers to determine whether imported dumped goods were in competition with goods made or produced wholly or in part in the United States to be an injury-determining function, and that the criteria for determining injury were not changed by the Senate amendments.

In affirming, the Court of Customs and Patent Appeals found itself in substantial agreement with the lower court's analysis. *Ellis K. Orlowitz Co.* v. *United States,* 50 C.C.P.A. 36, 40, C.A.D. 816 (1963).

Similarly, in *City Lumber, supra,* this Court acknowledged that Congress intended a broad construction of the term "injury." Prior to quoting the passage from *Orlowitz,* quoted at length above, the Court proceeded to say (64 Cust. Ct. at 835-836):

"In determining the statutory authority of the Antidumping Act, the court's primary consideration must be the effectuation of the declared policy and purpose of the act. After such consideration the court cannot agree with appellants' limited or restrictive interpretation of the Antidumping Act. The act was drawn in broad terms and its purpose was clearly to protect a domestic industry from 'dumping'. Dumping, in a foreign-trade sense, implies that there are, or are likely to be, 'sales at less than fair value', of foreign merchandise in the United States, that cause, or are likely to cause, injury to a domestic industry. The broad sweep of the statute may also be noted from the fact that it embraces not only an 'injury' to a domestic industry, but also the *likelihood* of injury. See Ellis K. Orlowitz Co. v. United States, 50 C.C.P.A. at 41.

* * * * *

* * * To hold that the Antidumping Act of 1921 provided a limited and restrictive remedy would be violative of the language of the act itself and its legislative history. Since the crux of the matter revolves around the determination of injury it is well to remember that the 1921 Antidumping Act, as passed by the House of Representatives, would have assessed special dumping duties against any kind of dumping in competition with a domestic industry without requiring a determination of injury. *The injury requirement was incorporated into the bill by the Senate Finance Committee, but, as pointed out in that Committee's report, the purpose was to facilitate administration of the law, and not to restrict its operation.* See Senate Report 16, 67th Cong., 1st Sess. p. 10. The House conferees agreed to the amendment, and the act was thus passed with the injury determination requirement. Act of May 27, 1921, 42 Stat. 11, as amended, 19 U.S.C. §§ 160–173 (1964). [Emphasis added.]

The Treasury Department itself has reported that, when it had the responsibility for making the "injury" determination under the Act (1921-1954) it viewed the injury requirement as being satisfied by evidence of anything more than *de minimis* injury. This was and is certainly consistent with the legislative intention.

With the enactment of the Customs Simplification Act of 1954, 68 Stat. 1138, the responsibility for the injury determination shifted to the Commission. A subsequent amendment, 72 Stat. 583 (1958), provided that a tie vote among the voting Commissioners would result in an affirmative determination, thus presenting a further indication that Congress intended a broad application of the Act. In 1967, the Commission also expressed the proper view that the injury requirement of the Antidumping Act is satisfied by a showing of any injury which is more than *de minimis, Cast Iron Soil Pipe From Poland,* T. C. Public. 214, 32 Fed. Reg. 12925 (1967),[4] and on numerous subsequent occasions has made manifest its adoption of this more than *de minimis* rule. *See, e.g., Pig Iron From East Germany, Czechoslovakia, Romania, and the U.S.S.R.,* T. C. Public. 265, 33 Fed. Reg. 14664 (1968); *Plastic Mattress Handles From Canada,* T. C. Public. 296, 34 Fed. Reg. 17130 (1969); *Whole Dried Eggs From Holland,* T. C. Public. 332, 35 Fed. Reg. 12500 (1970); *Pig Iron From Canada, Finland, and West Germany,* T. C. Public. 398, 36 Fed. Reg. 11835 (1971); *Asbestos Cement Pipe From Japan,* T. C. Public. 483, 37 Fed. Reg. 9267 (1972).

Perhaps the most vigorous Congressional assertion of its intent to adhere to the more than *de minimis* standard came during the furor which followed the 1967 signing of the International Anti-dumping Code, 19 U.S.T.I.A. 4348, T.I.A.S. 6431 (1967). Article 3 of the Code sets forth the following criteria for a determination of injury:

"A determination of injury shall be made only when the authorities concerned are satisfied that the dumped imports are demonstrably the principal cause of material injury or of threat of material injury to a domestic industry or the principal cause of material retardation of the establishment of such an industry. In reaching their decision the authorities shall weigh, on the one hand, the effect of dumping and, on the other hand, all other factors taken together which may be adversely affecting the industry."

This provision was clearly more restrictive than the corresponding concept in United States law, and indeed, when the U.S. representative signed the Code on June 30, 1967, without having been delegated the authority to do so, the Senate was nothing less than irate with the Executive Branch's overreaching. A proposed resolution was introduced which would have provided that the sense of Congress was: (1) that the provisions of the Code conflict with the Act; (2) that the Code should be submitted to the Senate for approval as provided by Article II, section 2, clause 2, of the Constitution; and, (3) that the Code should come into effect in the United States only upon passage of implementing legislation by Congress. *S. Con. Res. 38,* 90th Cong., 1st Sess. (1967). When the resolution was referred to the Tariff Commission for comment, that agency replied that the Code and Act conflicted. *See Report of the U.S. Tariff Commission on S. Con. Res. 38, Regarding the International Antidumping Code Signed at Geneva on June 30, 1967* (1968) (Committee Reprint of Sen. Comm. on Finance, 90th Cong., 2d Sess. (1968)).

Although the resolution was never acted upon, a rider to a Renegotiation Amendments House bill, H.R. 17324, 90th Cong., 2d Sess. (1968), was added in the Senate which would have had the effect of totally nullifying the Code. Finally, a compromise was reached, in conference, which allowed the Administration to save face, and Public Law 90–634 (1968) was enacted and provided, in section 201, that nothing contained in the Code should be construed to restrict the discretion of the Commission in performing its duties and functions under the Act, and further, in performing their duties and functions under the Act, the Secretary and the Commission should resolve any conflict between the Code and the Act in favor of the Act as applied by the agency administering the Act, and take into account the provisions of the Code only insofar as they are consistent with the Act, as applied by the agency

[4] In *Cast Iron Soil Pipe From Poland,* Commissioner Clubb, after reviewing the legislative history and the *Orlowitz* decision, made the following apt observation of the legislative intent (32 Fed. Reg. at 12928):

"* * * In order to relieve the Customs Bureau of the necessity of examining every importation for possible violation, the injury test was included. Congress thus made clear that it did not intend that *every* import sold at less than fair value should be subjected to dumping duties. If a competitive article is not produced in the United States, or if the imported article competes only peripherally in the same geographic or product market, Congress has provided for the consumer to benefit from the lower prices, rather than the domestic producer from peripheral protection. *But where the competition is direct, and the price is unfair, Congress has insisted that the dumping duties be imposed.*" [Italics added.]

administering the Act.[5] In short, any effort to modify the Act was rejected. *See* Pintos and Murphy, *Congress Dumps the International Antidumping Code*, 18 Cath. L. Rev. (1968); *see also* Long, *United States Law and the International Anti-Dumping Code*, 3 Int'l Law. 464 (1969), cited with approval by this Court in *City Lumber, supra*.

The Congressional reaction to the Code is pertinent in the present context because one of the key criticisms voiced in the Senate related directly to the Code's treatment of the injury question (*S. Rep. No. 1385, Part 2*, 90th Con., 2d Sess. 11 (1968) *reprinted in* (1968) U.S. Code Cong. & Ad. News, 4548–49):

"[U]nder the statute, the question to be explored is whether the dumped imports cause (or threaten) injury, not the extent to which other factors unrelated to the dumped imports may discount the effects of dumping. *An industry which is prospering can be injured by dumped imports just as surely as one which is foundering although the same degree of dumping would have relatively different impacts depending upon the economic health of the industry.*

"*Applying the literal language of article 3 could lead to the absurd result that an industry which is suffering reverses for reasons unrelated to dumping could get no relief from dumping because other factors were causing its troubles; and that an industry which is prospering despite dumping could get no relief because it is not suffering.* Thus, under the code it would appear that relief from dumping would be available only in the rare instance where an industry is found to be in excellent economic health immediately before the dumping begins and to be suffering losses soon after the dumping begins, and no other reason can be found to account for the reversal. *Such a sharp change from the concept in present law of finding injury when it is more than de minimis cannot be effected without a change in the law.* [Emphasis added.]

Further evidence of the Congressional understanding that a low threshold of injury was contemplated by the Antidumping Act may be found in the Senate Finance Committee's Report on what was to become the Trade Act of 1974, *S. Rep. No. 93–1298*, 93d Cong., 2d Sess., 180 (1974). There, it was stated:

"* * * Under the Antidumping Act, the Commission determines whether a domestic industry 'is being or is likely to be injured, or is prevented from being established, by reason of the importation of' the less-than-fair-value imports. The term 'injury,' which is unqualified by adjectives such as 'material' or 'serious,' has been consistently interpreted by the Commission as being that degree of injury which the law will recognize and take into account. Obviously, the law will not recognize trifling, immaterial, insignificant or inconsequential injury. Immaterial injury connotes spiritual injury, which may exist inside of persons not industries. Injury must be a harm which is more than frivolous, inconsequential, insignificant, or immaterial.

"Moreover, the law does not contemplate that injury from less-than-fair value imports be weighed against other factors which may be contributing to injury to an industry. The words 'by reason of' express a causation link but do not mean that dumped imports must be a (or the) principal cause, a (or the) major cause, or a (or the) substantial cause of injury caused by all factors contributing to overall injury to an industry.

"In short, the Commission does not view injury caused by unfair competition, such as dumping, to require as strong a causation link to imports as would be required for determining the existence of injury under fair trade conditions."

In sum, it is clear from a review of the statutory language, judicial and administrative precedents, and relevant legislative comments that the "more than *de minimis*" injury standard was that which the Congress contemplated and that which the administrative bodies have repeatedly employed.

Mr. HEINZ. Mr. President, the committee and the administration quickly came to agreement that we wanted to continue the same test as presently applied by the International Trade Commission in antidumping cases. The controversy arose over our efforts to reduce that standard to writing.

The result is long and detailed, including an extensive definition of "industry," essential to determining injury, and a list of factors to be taken into account in determining injury, which I understand as follows:

In making a determination of injury, the Commission shall take into account all economic factors which it considers relevant and significant under the circumstances, including without limitation the following: The volume of subsidized imports, either in absolute terms or relative to production or consumption in the United States; the effect of subsidized imports on prices in the domestic market for like products; the impact of subsidized imports on the domestic industry in respect of actual or potential decline in output, sales, market share, profit, return on investment, and utilization of capacity; actual and potential negative effect on each flow, inventories, employment, wages, growth, ability to raise capital or investment; any past, present, or potential loss of business to subsidized imports, potential increase in the level of inventories of such products in the United States. No one or more factors shall be essential to a finding of injury.

In determining injury caused by subsidized imports, the Commission shall not weigh against the effects of the subsidized imports other factors which may, at the same time, also be injuring the domestic industry.

Subsidized imports need not be a principal cause, a major cause or a substantial cause of injury to an industry when other factors may also be contributing to injury to an industry.

At this point, Mr. President, I ask the distinguished chairman of the subcommittee, Senator RIBICOFF, whether his understanding of the injury test is the same as mine as I have outlined it here.

Mr. RIBICOFF. My response to the distinguished Senator from Pennsylvania is that I have not seen the Senator's insert so I cannot comment on it. However, I have followed the Senator's statement as to injury very carefully and will state that his statement as to injury is correct.

Mr. HEINZ. I thank the Senator from Connecticut.

Mr. President, the critical question of the threshold of material injury was resolved with the statement that injury is "a harm which is not inconsequential, immaterial, or unimportant."

It is my view, and the committee report confirms it, that this language is intended to create a test identical to and no more difficult to meet than the present standard of the Antidumping Act.

Further, it is important to note that the terms "inconsequential," "immaterial," or "unimportant" are disjunctive; that is, connected by the word "or." It was the committee's intention in drafting the phrase this way to make clear that a quantum of injury need meet only one of these tests to qualify as material injury. That is, injury which is not unimportant is material injury; as is injury which is not inconsequential or not immaterial.

Further, much of the committee's debate concerned whether injury was a harm which is more than inconsequential, immaterial, or unimportant, or a harm which is not inconsequential, immaterial, or unimportant. It was the conclusion of both the Finance and Ways and Means Committees, concurred in by Ambassador Strauss when he spoke to the committee on their final day of consultations, that there is no substantive difference between these terms and that both reflect the existing standard.

The Senator from Connecticut was deeply and constructively involved as was the Senator from Louisiana, the chairman of the committee, in the resolution of this particular matter. I ask him at this point whether my understanding of the intent of the committee and the administration on this threshold issue is correct.

Mr. RIBICOFF. I respond to the Senator that the Senator's understanding is correct. The committee intends that the decisions of the ITC, between 1975 and this year under the Anti-Dumping Act on the whole, represent the standard of injury to be applied under the new countervailing and antidumping laws.

Mr. HEINZ. I thank the Senator from Connecticut.

I would further mention, Mr. President, the language of the injury definition regarding volume of imports. This section is also carefully drafted to make clear that it is not just an increase in the volume of imports that can cause injury, but the absolute level of such imports as well. As a result, domestic industries do not need to show an increase in imports, though that itself is a relevant cause of injury, but instead can show that the level of imports at the time of the investigation or the filing of the petition by itself causes injury. In both cases, of course, the ITC will consider the other factors included in the statute.

Another factor relevant to the determination of injury is causation. Both the codes and the bill make clear that injury must be by reason of subsidized imports. At the same time, however, the committee has made clear that different causes or factors of injury are not to be weighed against each other in an attempt to determine the major or substantial cause of injury; and that a

[5] Clearly, the compromise reached by the Senate-House conferees was understood to carry out substantially the Senate amendment. *See* 114 Cong. Rec. 29888 (1968) (remarks of Sen. Long).

petitioner shall not be required to prove the negative; that is, that he is not being injured by other factors.

One paragraph of the committee report in the section on injury needs some further clarification. That paragraph is as follows:

> In making a determination with respect to threat of material injury in countervailing duty investigations, the ITC may consider the nature of a subsidy practice and whether an adverse impact on a domestic industry is more likely to be associated with such a subsidy practice as opposed to what would be the case with another type of subsidy. This is particularly relevant with respect to export subsidies inconsistent with the Agreement on Subsidies and Countervailing Measures, which are inherently more likely to threaten injury than are other subsidies.

I certainly agree that export subsidies are more likely to cause injury than other subsidies and that they must be monitored with particular vigilance. I am concerned, however, that by doing so, we may necessarily be paying less attention to domestic subsidies or in some way taking them less seriously. This worries me, in part because if the codes work the way they are supposed to, we will see fewer export subsidies. I think it is a good idea to dispel any implication in the report that the latter are in any way less important than the former, namely, domestic subsidies, or that the injury test is in any way more difficult to meet in the latter cases. Can the managers reassure me on that point?

Mr. RIBICOFF. I can reassure the distinguished Senator from Pennsylvania that his interpretation and suppositions are correct.

Mr. HEINZ. I thank the Senator from Connecticut.

I am also concerned, Mr. President, over part of the paragraph immediately above the one I have just referred to. The sentence in question reads:

> The ITC will continue to focus on the conditions of trade and competition and the nature of the particular industry in each case.

I am concerned that this statement implies the ITC can consider the state of competition within our industry in making its judgment about injury or the threat thereof; that is, the ITC might conclude that an industry is not sufficiently competitive, and that conclusion could then be applied to its injury finding. In my view judgments such as this are entirely within the purview of the Federal Trade Commission, and this bill does not include any such authority for the ITC. Is that correct?

Mr. RIBICOFF. Let me assure the Senator from Pennsylvania that if the ITC finds injury or threat of injury then the bill would in no way permit the Commission to disregard that finding because of any information relating to competition within the domestic industry.

Mr. HEINZ. I thank the Senator from Connecticut.

Another major area of controversy in our negotiations with the administration was the concept of subsidy, both its definition and method of calculation. The existing countervailing duty law does not contain a detailed definition of a subsidy or bounty or grant. Similarly, the concept of net subsidy is undefined, which has led to some serious abuses by the Treasury Department in its attempt to reduce the amount of subsidy to levels sufficiently low to mollify our trading partners.

In order to eliminate this unfortunate practice, the committee has sought to more clearly define the concept. First, we have provided a specific, though not inclusive, list of subsidies including all those listed in annex A of the Subsidies Code, which I ask unanimous consent be included in the RECORD at this point.

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

ILLUSTRATIVE LIST OF EXPORT SUBSIDIES

(a) The provision by governments of direct subsidies to a firm or an industry contingent upon export performance.

(b) Currency retention schemes or any similar practices which involve a bonus on exports.

(c) Internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favourable than for domestic shipments.

(d) The delivery by governments or their agencies of imported or domestic products or services for use in the production of exported goods, on terms or conditions more favourable than for delivery of like or directly competitive products or services for use on the production of goods for domestic consumption, if (in the case of products) such terms of conditions are more favourable than those commercially available on world markets to its exporters.

(e) The full or partial exemption, remission, or deferral specifically related to exports, of direct taxes [1] or social welfare charges pair or payable by industrial or commercial enterprises.[2]

(f) The allowance of special deductions directly related to exports or export performance, over and above those granted in respect to production for domestic consumption, in the calculation of the base on which direct taxes are charged.

(g) The exemption or remission in respect of the production and distribution of exported products, of indirect taxes [1] in excess of those levied in respect of the production and distribution of like products when sold for domestic consumption.

(h) The exemption, remission or deferral of prior stage cumulative indirect taxes [1] on goods or services used in the production of exported products in excess of the exemption, remission or deferral of like prior stage cumulative indirect taxes on goods or services used in the production of like products when sold for domestic consumption; provided, however, that prior stage cumulative indirect taxes may be exempted, remitted or deferred on exported products even when not exempted, remitted or deferred on like products when sold for domestic consumption, if the prior stage cumulative indirect taxes are levied on goods that are physically incorporated (making normal allowance for waste) in the exported product.[3]

(i) The remission or drawback of import charges [1] in excess of those levied on imported goods that are physically incorporated (making normal allowance for waste) in the exported product; provided, however, that in particular cases a firm may use a quantity of home market goods equal to, and having the same quality and characteristics as, the imported goods as a substitute for them in order to benefit from this provision if the import and the corresponding export operations both occur within a reasonable time period, normally not to exceed two years.

(j) The provision by governments (or special institutions controlled by governments) of export credit guarantee or insurance programmes, of insurance of guarantee programmes against increases in the costs of exported products [4] or of exchange risk programmes, at premium rates, which are manifestly inadequate to cover the long-term operating costs and losses of the programmes.[5]

(k) The grant by governments (or special institutions controlled by and/or acting under the authority of governments) of exports credits at rates below those which they actually have to pay for the funds so employed (or would have to pay if they borrowed on international capital markets in order to obtain funds of the same maturity and denominated in the same currency as the export credit), or the payment by them of all or part of the costs incurred by exporters or financial institutions in obtaining credits, in so far as they are used to secure a material advantage in the field of export credit terms.

Provided, however, that if a signatory is a party to an international undertaking on official export credits to which at least twelve original signatories [6] to this Agreement are parties as of January 1, 1979 (or a successor undertaking which has been adopted by those original signatories), or if in practice a signatory applies the interest rates provisions of the relevant undertaking, an export credit practice which is in conformity with those provisions shall not be considered an export subsidy prohibited by this Agreement.

(l) Any other charge on the public account constituting an export subsidy in the sense of Article XVI of the General Agreement.

FOOTNOTES

[1] For the purpose of this Agreement:

The term "direct taxes" shall mean taxes on wages, profits, interest, rents, royalties, and all other forms of income, and taxes on the ownership of real property.

The term "import charges" shall mean tariffs, duties, and other fiscal charges not elsewhere enumerated in this note that are levied on imports.

The term "indirect taxes" shall mean sales, excise, turnover, value added, franchise, stamp, transfer, inventory and equipment taxes, border taxes and all taxes other than direct taxes and import charges.

"Prior stage" indirect taxes are those levied on goods or services used directly or indirectly in making the product.

"Cumulative" indirect taxes are multistaged taxes levied where there is no mechanism for subsequent crediting of the tax if the goods or services subject to tax at one stage of production are used in a succeeding stage of production.

"Remission" of taxes includes the refund or rebate of taxes.

[2] The signatories recognize that deferral need not amount to an export subsidy where, for example, appropriate interest charges are collected. The signatories further recognize that nothing in this text prejudges the disposition by the Contracting Parties of the specific issues raised in GATT document L/4422.

The signatories reaffirm the principle that prices for goods in transactions between exporting enterprises and foreign buyers under their or under the same control should for tax purposes be the prices which would be charged between independent enterprises acting at arm's length. Any signatory may draw the attention of another signatory to administrative or other practices which may contravene this principle and which result in a significant saving of direct taxes in export transactions. In such circumstances the signatories shall normally attempt to resolve their differences using the facilities of

existing bilateral tax treaties or other specific international mechanisms, without prejudice to the rights and obligations of signatories under the General Agreement, including the right of consultation created in the preceding sentence.

Paragraph (e) is not intended to limit a signatory from taking measures to avoid the double taxation of foreign source income earned by its enterprises or the enterprises of another signatory.

Where measures incompatible with the provisions of paragraph (e) exist, and where major practical difficulties stand in the way of the signatory concerned bringing such measures promptly into conformity with the Agreement, the signatory concerned shall, without prejudice to the rights of other signatories under the General Agreement or this Agreement, examine methods of bringing these measures into conformity within a reasonable period of time.

In this connection the European Economic Community has declared that Ireland intends to withdraw by 1 January 1981 its system of preferential tax measures related to exports, provided for under the Corporation Tax Act of 1976, whilst continuing nevertheless to honour legally binding commitments entered into during the lifetime of this system.

[3] Paragraph (h) does not apply to value-added tax systems, and border-tax adjustment in lieu thereof and the problem of the excessive remission of value-added taxes is exclusively covered by paragraph (g).

[4] The signatories agree that nothing in this paragraph shall prejudge or influence the deliberation of the panel established by the GATT Council on 6 June 1978 (C/M/126).

[5] In evaluating the long-term adequacy of premium rates, costs and losses of insurance programmes, in principle only such contracts shall be taken into account that were concluded after the date of entry into force of this Agreement.

[6] An original signatory to this Agreement shall mean any signatory which adheres ad referendum to the Agreement on or before 30 June 1979.

Mr. HEINZ. In addition, however, the committee included in its subsidy definition four types of domestic subsidies:

If provided or required by government action to a specific enterprise or industry, or a group of enterprises or industries, whether publicly or privately owned, and whether paid or bestowed directly or indirectly on the manufacture, production, or export of any class or kind of merchandise:

(i) The provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations.

(ii) The provision of goods or services at preferential rates.

(iii) The grant of funds of forgiveness of debt to cover operating losses sustained by a specific industry.

(iv) The assumption of any costs or expenses of manufacture, production or, distribution.

This list is intended to define as subsidies some of the more egregious practices of our trading partners and to include, among others, the practices and objectives listed in article 11 of the Subsidies Code.

The point of this language and these examples, Mr. President, is to define subsidy broadly so as to catch within the scope of our law as many unfair trading practices as we can. That, of course, does not mean we countervail, because injury must also be found. It was the committee's intent, however, that the Treasury Department, or whatever administering authority ends up with this new law, not resolve petitions by arbitrarily concluding that various practices are not subsidies. Better to define the term broadly, as it ought to be defined, and then use the injury test as it is intended to be used.

Can the managers of the bill confirm for me these comments on the definition of subsidy?

Mr. RIBICOFF. May I respond that I can confirm the Senator's comments, and the Senator is correct.

Mr. HEINZ. I thank the Senator from Connecticut.

While rebates of value added taxes are excluded from the list of subsidies in the code—an unfortunate decision in my view—a difficult issue arises in the case of certain kinds of VAT-like cascade taxes such as the Spanish system, rebates of which are not strictly like rebates of a VAT, because they are not calculated on the exact basis of value added but rather are determined on the basis of an aggregate calculation which is not necessarily an accurate reflection of the real value added of a particular product. When this kind of cascade tax is rebated, individual exporters may receive a bounty in excess of the exact amount of tax paid earlier at various stages of production.

The language of the Senate Finance Committee report on page 85 appears to open the door very slightly to treating this kind of rebated tax as a VAT rather than as a counteravailable subsidy. The language, however, is narrowly drawn by making clear that any payment excluded from the definition of subsidy must be reasonably calculated, specifically provided as on nonexcessive rebate of an indirect tax permissible under annex A of the code, and it must be directly related to the merchandise exported, as opposed to a more general rebate.

As in all cases in this statute, these terms are intended to be adhered to strictly, and the burden is on the recipient of the benefit or his government to show that the payment meets each of the above tests. I can assure the administering authority that many people in this country, including this Senator, will be closely watching any case that might fall in this category and will expect evidence to be thoroughly developed so that it is conclusively established that payment meet these tests. Personally, I am doubtful that the Spanish tax or any similar tax can meet these standards. As the Senator who offered the offset and subsidy definition language incorporated into the bill, I can say it was certainly not my intent that rebates of cascade taxes and the like be treated in this way. If they are, the administering authority had better have an airtight case.

SUBSIDY CALCULATION

Perhaps the issue which has vexed me the most throughout the Finance Committee's consideration of the MTN bill is the question of how a subsidy is calculated. By not clarifying the meaning of net subsidy, present law permits the Treasury Department to abuse the intent of the law by going out of its way to find ways to reduce the subsidy amount.

The new bill takes significant steps toward controlling this problem by clearly defining and limiting permissible deductions from a gross subsidy. The allowable deductions, called offsets, are strictly limited to:

First, any application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the subsidy;

Second, any loss in the value of the subsidy resulting from its deferred receipt, if the deferral is mandated by government order; and,

Third, export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received.

The basic concept of an offset is valid. The benefit to a foreign producer attributable to a subsidy ought to be the actual benefit received. For example, if a producer can receive a subsidy only after payment of an application fee, then the actual benefit received should be the gross amount of the subsidy minus the application fee.

Similarly, in the case of the second offset, a subsidy granted in the form of a certificate redeemable only at a future time by government order, the net subsidy would be the gross subsidy minus any loss in its value, for example due to inflation, before it can be redeemed.

To illustrate the limits of this concept, however, if such a certificate were sold before it could be redeemed, the amount of the net subsidy would be the face value of the certificate, not its sale or market value, since the sale was not mandated by the government.

I would ask the distinguished managers of the bill if that is also their understanding.

Mr. RIBICOFF. May I respond to the Senator from Pennsylvania that I have followed his explanation and analysis very carefully, and the Senator is correct.

Mr. HEINZ. I thank the Senator from Connecticut, the manager of the bill.

The third offset established another important principle by allowing offsets for taxes paid related directly to the subsidy in question.

Thus an across-the-board export tax not rebated, for example, could not be offset since the tax was not intended specifically to offset the subsidy. An across-the-board tax would have to be paid whether or not the subsidy existed, and thus is not directly related.

The offset language in the statute is also limited by what is omitted. In its deliberations on this issue the committee explicitly voted to reject two other offsets, and in doing so made clear its intent that these were not to be deducted from a gross subsidy.

First, the committee voted to exclude regional aids. Clearly, a payment for locating a plant in a particular region of a country is a subsidy. However, it has been Treasury's practice to offset such a subsidy with its estimate of any additional costs of locating in that region, inevitably a calculation of great inaccuracy.

The theory is that if the company has a choice of locating in either region A

or B of a country and would normally choose A because the cost to locate in B is greater, a subsidy to offset the cost of locating in B has no effect on exports from the territory of the subsidy-granting country. That is, the price of the product produced in B will be the cost less the subsidy that is equal to the additional location cost plus profit which is the same as the price (cost plus profit) of a product produced in A.

The difficulty with this theory is that this type of subsidy is functionally no different than any subsidy that has the purpose of eliminating a comparative disadvantage. It is also impossible to calculate with any precision the additional location costs with the result that the true effect of the subsidy can be masked. Finally, an offset of this nature would not take into account savings achieved by location decisions, such as labor rate differentials, raw material availability, and so forth.

The other explicit omission is that of indirect taxes not rebated. First, as I have indicated it has been traditional Treasury practice—upheld by the Supreme Court—and GATT procedure that the rebate or remission of indirect taxes (that is, a sales tax or a value added tax—on the export of a product is not a bounty or grant for purposes of the Countervailing Duty Law or article VI of GATT. Typically, a value added tax is a cascade tax: That is, if A produces an automobile axle and sells it to B, A collects a tax on the invoice price which is paid to the government. B further processes the axle and sells it to C collecting a tax again on the invoice price. B deducts from the tax collected from C the amount paid to A and remits the remainder to the government. C then exports the product to the United States. Because of the exportation, C does not collect a value added tax and is entitled to a rebate from the government of the tax paid at the time of the purchase from B. Ordinarily, of course, the tax obligations and remissions are calculated on a monthly gross basis rather than on individual items but the principle remains the same. In the example given, the remission to C of the excise or value added tax paid by C to B upon the export of the product by C would not be considered a countervailable duty or grant. This type of tax is called an indirect tax.

The bounty in lieu of unremitted indirect taxes issue arises under those tax systems where B would not receive credit for the tax paid to A upon the sale to C. Such indirect taxes cannot be rebated on export because they were not "cascaded" through the system. In some countries, which do not have the cascade system, an export rebate is granted equivalent to what is thought to be the indirect taxes that could have been rebated but are not because of the tax system. Treasury has asked for an offset for these types of taxes, but the committee rejected this proposal for a number of reasons. First and foremost, is the fact that the offset ordinarily is no more than a guess as to the amount of the taxes that could have been rebated but were not. Second, because of the lack of cascade effect, the exporter gets an undue amount of benefit from the rebate. Thus his price is likely to be even more affected than it would have been had there been a cascade system. Finally, Treasury should not base U.S. countervailing duty policy on the tax methodologies selected by varying countries.

Do the managers of the bill agree with this analysis as well?

Mr. RIBICOFF. The Senator is correct that the Finance Committee specifically rejected offsets for regional aids and offsets for indirect taxes which are not rebated. The bill reflects this decision of the Finance Committee.

(Mr. HUDDLESTON assumed the chair.)

Mr. HEINZ. I thank the distinguished Senator.

Another problem in the calculation of a net subsidy is the treatment of a nonrecurring subsidy, such as a capital grant for the construction of a plant. The problem is to find a fair method of allocating the subsidy over the products being exported. In the past Treasury has from time to time used unrealistically long-time periods, such as the useful life of the facility, for such allocation, leading to excessively low subsidy amounts. As the report makes clear, greater attention must be paid to the immediate competitive benefit the subsidy provides, and the calculation of the amount of subsidy should reflect that immediate benefit in the initial years of the facility's life.

Finally, with respect to the use of offsets, I want to emphasize the committee's determination that their use be narrowly circumscribed to the three listed in the statute. No others are permitted, and all which do not meet the letter of the statutory language are similarly excluded.

SUSPENSION OF INVESTIGATIONS

Another section of this bill that causes me great concern is the concept of suspension or discontinuance of a countervailing duty or antidumping investigation pursuant to an agreement, with a foreign government in the case of a subsidy investigation or foreign manufacturers in the case of an antidumping investigation.

When the committee discussed this concept there was some suggestion that it was analogous to settling a case out of court, a time-honored practice essential to the smooth and efficient running of the judicial process. In fact there is a major difference. In a suit any settlement is between plaintiff and defendant. In this bill any settlement is effectively between defendant and judge, a very different relationship, especially when the judge is not always neutral.

The original Heinz-Moynihan bill did not allow for any assurances or suspensions. Ultimately we agreed to permit them under certain narrowly constrained circumstances, which I would like the managers of the bill to confirm for me.

First, in almost all cases any assurance must involve the complete elimination or offset of the unfair practice. That is, in a countervailing duty case, the subsidy must be fully removed or offset or the imports stopped. In an antidumping case, the dumping margin must be eliminated or the imports stopped. Note that in a countervailing case, I said the subsidy must be fully eliminated or offset. If a subsidy, for example, were a capital grant to build a factory, a simple promise by the government providing the subsidy to eliminate the program in the future would hardly undo the damage done. In those cases the subsidy must be fully offset. In all such circumstances, any increase in imports during the 6-month period of phase-out of the subsidy or less than fair value sales would be prohibited.

Beyond this basic standard, the statute will permit some cases of a less than full assurance. It is the intent of the committee that such cases be rare and exceptional, and that each of the qualifying tests be demonstrably met. Those tests are that suspension of the investigation would benefit the domestic industry more than its continuation and that the case is complex, meaning that there are a large number of complicated subsidy practices or a large number of transactions of adjustments in dumping cases, a large number of exporters or novel issues presented. Needless to say, the domestic industry would be expected to have some input into the question of whether it would benefit by an assurance, and I would find it very difficult to believe a judgment that the domestic industry would benefit more from a suspension than a completed investigation if that industry had expressed its opposition to such an action.

If the administering authority can demonstrate extraordinary circumstances exist, then the standard for an assurance would be complete removal of the injurious effect of the subsidy or less than fair value sales. Additionally, an assurance would specifically have to offset at least 85 percent of the subsidy amount or be no greater than 15 percent of the weighted average amount by which the estimated foreign market value exceeded the U.S. price in antidumping cases, and could not suppress or undercut domestic price levels.

Further, any agreement, involving either complete elimination of the subsidy or dumping margin or something less than that, would have to be on behalf of foreign exporters of at least 85 percent of the volume of exports of the product in question.

There are also appropriate procedures and protections for the domestic petitioner which are described in the statute and the report. I also want to emphasize, however, that all these tests are not simply threshold issues which once met can be forgotten. They must continue to be met throughout the life of the agreement for it to remain operative. Thus, for example, if exporters not covered by such an agreement were to increase their exports to the point where the agreement no longer represented 85 percent of the volume of exports subject to the investigation, the investigation would be resumed and, upon appropriate findings, countervailing or antidumping duties, as the case may be, imposed. Similarly, if the domestic petitioner at some later point were able to establish the agreement no longer completely removed the injurious effect of the subsidy or dump-

ing, then the agreement would be ended and duties imposed. It should also be pointed out in this regard that the standard required, complete removal of the injurious effect, is an explicitly lower standard than the material injury standard elsewhere in the bill.

Mr. President, I remain opposed in principle to the practice of suspensions and assurances, largely because it permits a continuation of practices which have, at least preliminarily, been found to be unfair and in violation of the MTN agreements and our law. Nonetheless, with the kind of safeguards and restraints built into this section and with the clear understanding that extraordinary circumstances are to be the rare exception rather than the rule, the provision is tolerable. I would ask the managers of the bill, however, if my understanding of the suspension procedure is accurate.

Mr. RIBICOFF. The Senator has correctly outlined the provisions of the bill dealing with suspensions of investigations. The provisions of the bill are intended to result in suspensions of investigations only when agreements are made with foreign governments or exporters. These agreements must effectively control the subsidized or dumped imports so that they no longer injure domestic industries.

May I comment that I have watched with great interest the dedication of the Senator from Pennsylvania to these very complex problems that impact on his constituency and the country as a whole. He has been most zealous in protecting labor and industry in his State and in the Nation. I compliment the distinguished Senator for his contribution to the overall MTN legislation.

Mr. HEINZ. I thank the Senator from Connecticut, who has chaired the committee for days, weeks, and months of hearings and markups. I do not know how we would have gotten through this bill in such a relatively rapid time without the persistence and patience of the manager of this bill. I thank Senator RIBICOFF particularly for his kind remarks. It has been a learning experience for me, and I appreciate his very kind and generous characterizations of the learning process.

Mr. ROTH. Mr. President, as the Republican manager of this bill, I concur in Senator RIBICOFF's response to each of the inquiries posed by Senator HEINZ. I would also like to acknowledge Senator HEINZ' invaluable contribution to the legislative endeavor. His energy and insight on a number of key issues, I believe, has resulted in many positive improvements in this legislation.

Mr. HEINZ. Mr. President, I would simply like to thank Senator ROTH for his fine and generous comments. This bill, of course, is the result of many, many very patient and painstaking hours of work by a number of members of the committee. I do not know of a single member of the committee, in fact, who did not put in more than his fair share of time. The Senator from Delaware and the Senator from Connecticut are certainly the most preeminent in that regard. I want to say, Mr. President, that without the work of all the members of the committee, I doubt that we would be in the position we are in today, which is having a piece of legislation which deserves the support of every Member of this body.

Thank you, Mr. President.

Mr. BENTSEN. Will the manager of the bill yield me 3 minutes?

Mr. RIBICOFF. I am pleased to yield to the distinguished Senator from Texas.

Mr. BENTSEN. Mr. President, many words have been said by the people who have participated in this debate, and I am certainly in accord with them. I hear of all this unanimity which is taking place on the floor now, of the wonderful work of ABE RIBICOFF and of BILL ROTH, from Delaware. I am delighted with the support which is being shown for this bill.

My gregarious and very able friend Bob Strauss, the very fine ambassador from Texas, has done an excellent job as the President's Special Trade Representative. His tireless efforts have resulted in the successful conclusion of these landmark trade negotiations. We are all appreciative of that. But there is another man who has been in the day-to-day trade negotiations, slugging it out, a very intelligent and able man, Ambassador Alonzo McDonald, who gave up a highly compensated position to serve his country, and the country is certainly the beneficiary of his outstanding contribution.

Mr. President, I would like to ask the distinguished Senator from Connecticut a question.

As I understand it, under this bill, countervailing duties could be imposed when it is determined that a country is providing a subsidy for products imported into the United States which cause material injury or threat of material injury to a U.S. industry. Further, section 771(12) of the Tariff Act of 1930, as would be added by the bill, would provide that for the purposes of the countervailing duty law, merchandise is to be treated as the product of the country in which it is manufactured or produced without regard to whether it is imported into the United States in the same condition as when exported from that country, or in a changed condition by reason of remanufacture or otherwise.

Also under the bill, antidumping duties could be imposed whenever it is determined that foreign products are being sold in the United States at less than their fair value and such merchandise is causing material injury or threat of material injury to a U.S. industry. Under section 773(d) of the Tariff Act of 1930, as would be added by the bill, a provision in the present antidumping duty law would be continued. Under this provision, if a firm sells products produced in one country at a higher price in the markets of that country compared to the price of sales of the same product to the United States produced by a subsidiary located in a second country, the United States could in appropriate circumstances apply antidumping duties calculated by referring to the higher priced sales even though products from that firm in that country are not actually imported into the U.S. market.

With this background, I am concerned about the following situations. It is my understanding that many foreign companies or enterprises organized and based in one foreign country and receiving direct or indirect subsidies on a product produced in this home country have adopted the practice of manufacturing merchandise which uses the subsidized product in another foreign country and then exporting that subsidized merchandise to the United States. Further, some foreign multinational corporations use higher priced sales and profits in a protected home market to offset lower priced sales to the United States from a subsidiary located in another country so that they can increase their sales in the U.S. market. I do not believe that a foreign enterprise which receives the benefits of a subsidy from its home government, or high prices in its protected home market which permit it to dump from a subsidiary in another country, should escape the application of the U.S. unfair trade laws merely because the subsidized merchandise or the dumped merchandise is exported to the United States from another foreign country.

Is my understanding correct, that it is the legislative intention that the ITC or other administering authority will take account of these factors in administering the trade laws?

Mr. RIBICOFF. The Senator is correct. In the situations described, the merchandise coming to the U.S. market will be subject in appropriate cases to countervailing duties or antidumping duties.

Mr. BENTSEN. I thank the distinguished manager of the bill. I am told that the manager for the minority is in accord with that statement.

Mr. ROTH. Yes, I am happy to say that I am in accord with that statement.

Mr. BENTSEN. I thank the distinguished Senator from Delaware.

Mr. ROTH. I yield 5 minutes to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I rise today to join colleagues on both sides of the aisle in urging approval of H.R. 4537, the Trade Agreements of 1979 I was honored to be the designee of the minority leader in introducing this bill on June 19 with Senator LONG and many cosponsors from both sides of the aisle. Since then, the House has approved the bill by the overwhelming margin of 395 to 7. I believe we in the Senate should also act expeditiously and affirmatively.

Mr. President, H.R. 4537 embodies the results of more than 5 years of international trade negotiations by three administrations, and several months of detailed review of virtually every trade law of the United States. The trade negotiations involved more than countries, and produced the first significant revisions of international rules concerning nontariff barriers to trade since the adoption in 1947 of the General Agreement on Tariffs and Trade. This bill will approve

the new rules and implement their requirements in U.S. law.

But this bill, Mr. President, goes beyond mere implementation of new obligations of the United States. As a result of intensive, bipartisan consultations between the Finance Committee, other committees, and the administration, the bill contains several revisions in our law which, though not required by our international obligations, are consistent with the new agreements and achieve important benefits for our domestic interests.

It is appropriate at this point to reiterate the praise which many colleagues and I have voiced for the many people in both the executive and legislative branches who have worked so hard to produce this imposing trade package. Everybody's honor roll, of course, must begin with Bob Strauss, who showed great skill, imagination, and political acumen in bringing deadlocked international negotiations to a successful conclusion. At least as important, Bob Strauss showed great receptivity and accommodation to ideas from the private sector and Congress, including Republicans and Democrats. I would also extend my thanks to Ambassador Strauss' staff and the many, many support personnel in the executive branch.

There are many individuals in this body also who merit special thanks. Senators HEINZ and MOYNIHAN and Senators DANFORTH and BENTSEN introduced trade bills earlier this year which inspired many of the provisions of this bill relating to countervailing and antidumping duties. Chairman LONG, as well as Senators RIBICOFF and ROTH of the trade subcommittee, were invaluable. Many other Senators made major contributions on various points.

Mr. President, I think the results of all this effort merit our approval. I will not pretend that this trade package is a panacea for our trade deficit or basic economic problems, but I believe it is, on balance, a positive step forward. As a result of this package, our Government should move faster and more effectively against imports which harm our domestic industries through unfair foreign trade practices such as dumping and subsidization. Foreign countries should exert greater descipline on export subsidies which limit our export opportunities, and our Government should be more responsive to complaints of U.S. exporters. Our highly competitive aircraft industry will benefit from trade liberalization. Customs procedures should be fairer here and abroad. Codes on standards and import licensing should reduce trade barriers of those types. We have a foot in the door to some formerly closed export markets, such as foreign government purchases. And consumers should benefit generally from trade liberalization.

Mr. President, we must also acknowledge that there will be some costs to this trade package. Increased cheese imports create problems for our dairy industry, and I hope this body will be specially attentive to assure the continuing viability of this group.

Domestic producers of distilled imports will face greater competition from bottled imports. Other industries will also face increased competition as a result of the reduction of tariffs and other trade barriers.

We must remain vigilant to the needs of both those facing increased imports and those who stand to benefit from increased exports. I was careful to note that our export industries should benefit from the new trade rules. The United States will need to press vigorously for international and domestic enforcement of the new rules. Many potentially beneficial new rules contain qualifications or uncertainties. If the executive branch does not press our case, these rules could result in little benefit to our interests.

I urge, therefore, that we pass this bill, but that we not delude ourselves that trade issues can slip into the background after enactment of this bill and the Export Administration Act. The Congress must assure that the executive branch enforces the new domestic laws and international agreements. We must be prepared to take further action to help the private sector to take advantage of new export opportunities, we must be prepared to take decisive action if foreign competitors take unfair advantage of our more open markets or fail to deliver on their obligations to us. Our businesspeople, workers, and farmers are our biggest asset in rectifying our trade imbalance. We must build on the new opportunities in this trade package and the abilities of our private sector. That must be our continuing effort.

I thank the distinguished Senator from Delaware for yielding.

Mr. RIBICOFF. Mr. President, the Senator from Hawaii (Mr. INOUYE) has asked the following question:

I notice in the enforcement section of the bill, Title IX, that Section 301 of the Trade Act of 1974 is amended and enlarged. I notice that it states that if the President determines that action by the United States is appropriate to enforce the rights of the United States under any trade agreement or to respond to any act, policy, or practice of a foreign country or instrumentality that is, among other things, and I quote, "unjustifiable, unreasonable or discriminatory or burdens or restricts United States commerce;" he may act under Section 301. Later in the same amendment I notice under the section dealing with special provisions that it is determined that an act or policy or practice by any country or instrumentality that burdens or restricts United States commerce may include the payment by a foreign country or instrumentality, directly or indirectly, of subsidies for the construction of vessels used in the commercial transportation by water of goods between foreign countries and the United States. Because the language I have just quoted adds a new dimension to Section 301 of the Trade Act, it can in effect give a complaining party, indeed the President if he takes such action, the ability to impose the burden *"expost facto."* There are vessels now both under foreign-flag and indeed under U.S.-flag that were built in foreign countries and built with subsidies. Indeed, there have been contracts let long before this bill became a reality for the construction of vessels in foreign countries both for American-flag and foreign-flag with subsidies. I would assume the Senator from Connecticut would agree that the imposition of this new expansion of Section 301 was not intended to place the potential of a retroactive penalty or duty on vessels that were already built or under contract at the date of enactment of this legislation. In other words, if there are vessels already in existence or contracts to build vessels already signed and effective, these existing vessels and the vessels to be built under the contracts were not intended to be covered by this language but that it would only apply to vessels and contracts involving vessels constructed subsequent to the date of enactment of this legislation.

The Senator from Hawaii is correct. This language is added to give a potential right to an aggrieved American shipyard if he can show that the foreign subsidies on shipping constitute a burden and restrict U.S. commerce. It is clearly not intended that this expansion of section 301 would affect existing vessels, or, as a matter of policy, to vessels that are already contracted for prior to the date of introduction of this legislation. Clearly, this could have a serious impact on our relations with certain countries. But, while as a matter of policy these vessels may be excluded, the existence of the language for its application in the future should constitute a warning to those countries that, while they may grant subsidies for construction of vessels, they cannot do so if the form of that grant constitutes a burden or restriction on U.S. commerce.

I am glad the Senator from Hawaii raised the point.

Mr. DANFORTH. Mr. President, will the Senator from Delaware yield me as much time as necessary to make some remarks and then to engage in a colloquy with the distinguished managers of the bill?

Mr. ROTH. Yes, Mr. President, I so yield.

Mr. DANFORTH. Mr. President, over the last few decades an increasing number of U.S. industries from every section of the country have faced growing and aggressive foreign competition. Much of this competition has been fair. It is welcomed. Some of the competition has been unfair, taking the form of subsidized or dumped imports. The latter is not welcomed and must be stopped.

Coping with unfair trade practices was a major focus of the recently concluded Tokyo round of the multilateral trade negotiations in Geneva. The reforms agreed to in Geneva are one step in the process of securing fairer trade practices. Another important step is embodied in H.R. 4537, the "Trade Agreements Act of 1979."

I am a cosponsor of H.R. 4537. The legislation contains many improved procedures for enforcing the laws now on our books—specifically, the 1921 Antidumping Act and the Tariff Act of 1930, the countervailing duty law. Many of the provisions against unfair foreign competition embodied in H.R. 4537 are similar to provisions and concepts embodied in S. 223, a bill which I introduced earlier this year along with 20 of my Senate colleagues.

That bill, and S. 3127, introduced in the 95th Congress, were based on the belief that such unfair trade practices

as dumping and sales of subsidized goods, although clearly proscribed under long existing law, were, until the passage of H.R. 4537, without timely and effective remedy because the enforcement procedures under existing law were inadequate. The concepts embodied in S. 223 and now found in H.R. 4537 would continue the process, begun in the Trade Act of 1974, of assuring a swift and certain response to illegal dumping and sales of subsidized goods by tightening enforcement procedures.

In the past, four principal problems stood in the way of fair, swift, and effective enforcement of our laws against unfair trade practices:

First. The Treasury Department's failure to initiate its own antidumping and countervailing duty investigations and, in fact, a general movement toward hindering the ability of domestic firms to instigate investigations by filing petitions;

Second. Periods for investigations and delays in obtaining relief that were unnecessarily lengthy;

Third. Lax enforcement after the investigation was completed, permitting lengthy postponement of antidumping duties, or an outright waiver of the duty in some countervailing duty cases;

Fourth. Judicial review provisions which were not sufficiently broad in their scope to check abuses of the wide discretion possessed by the Treasury and the International Trade Commission.

S. 223 addressed these and other problems. H.R. 4537, by embodying many of the provisions and concepts of S. 223, remedies these shortcomings in the enforcement of our country's unfair trade competition laws.

I would like to discuss with the floor manager and my other colleagues on the floor a number of the provisions of H.R. 4537, dealing with the procedural mechanisms and the enforcement responsibilities under our now amended international trade laws. Before I do, though, I would like to make a number of general observations:

First. H.R. 4537 rejects a protectionist approach. It embraces, rather than abandons, the goal of free trade. It will help foster free and fair competition by offering effective procedures for dealing with such marketplace distortions as discriminatory pricing and unfair subsidization by foreign governments.

Second. Any trade legislation should be dedicated to the principle that free trade must mean fair trade—that free competition must also mean fair competition. It is not free trade and it is not fair trade if Americans play by the rules and our competitors do not. It is not free and it is not fair if foreign manufacturers have ready access to our markets and we in turn are shut out from their home markets.

In the midst of growing cries for "protectionist" measures, we should not abandon our commitment to free competition until we first do a much better job of assuring that trade competition is fair. That was the simple and straightforward purpose of the legislation I introduced—and I believe it is the purpose of H.R. 4537.

Third. Some doctrinaire free trade advocates adopt the view that any restrictions on the market are inconsistent with free trade, and brand as "protectionist" those of us who advocate vigorous enforcement of existing antidumping and countervailing duty laws. I reject such arguments. As the Finance Committee report on the Trade Act of 1974 clearly states, the Antidumping Act "is not a 'protectionist' statute designed to bar or restrict U.S. imports, rather, it is a statute designed to free U.S. imports from unfair price discrimination practices."

The danger that Government subsidies and dumping will result in adverse distortions of free trade has been recognized for decades in our own law and in the laws of all our major trading partners. Our countervailing duty statute was originally enacted in 1897, and our antidumping statutes were enacted in 1916 and 1921. It has been recognized by the General Agreement on Tariffs and Trade since 1947, and by international conventions considerably before that date, that member nations have a right to take action against certain unfair trade practices such as dumping or export subsidization without fear of reprisal from the offending nation.

Fourth. Finally, the cornerstone of free trade theory is that consumers should be free to seek the cheapest and best products available anywhere in the world. Whereas some "free traders" argue that dumped products or subsidized imports should be permitted as a benefit to consumers, it is possible to demonstrate that the U.S. consumer's interests are not served by such practices. Whereas there may be lower prices in the short run, the long run impact is likely to be higher prices and greater profits for the foreign producers once the domestic competition has been crippled.

The provisions of H.R. 4537 which I would like to discuss are those dealing with:

First. Self-initiation of investigations by the administering authority in both antidumping and countervailing duty cases;

Second. Initiation of an investigation by petition and the test to be employed by the administering authority to determine the petition's sufficiency in both antidumping and countervailing duty cases;

Third. The process by which a preliminary determination is reached and the test to be used by the administering authority in rendering an affirmative preliminary determination in both antidumping and countervailing duty cases;

Fourth. The requirement that information relied upon by the administering authority in reaching its determinations be verified in both antidumping and countervailing duty cases;

Fifth. The establishment of fixed time periods for the assessment and collection of duties emphasizing that the process of assessment and collection by the Customs Service is ministerial in nature, without discretion, thereby subjecting the Customs Service to a Writ of Mandamus for failure to perform in both antidumping and countervailing duty cases;

Sixth. The requirement of hearings, upon request, before a final determination is issued by both the administering authority and the ITC in antidumping and countervailing duty cases; and

Seventh. The provision within the judicial review title of the bill providing for expedited interlocutory appeals from a negative preliminary determination or a request to extend the time for the preliminary determination in both antidumping and countervailing duty cases.

Mr. President, at this point, I want to make some further remarks and engage in a colloquy with the distinguished chairman of the Subcommittee on International Trade.

First. With respect to self-initiation of the countervailing duty or antidumping investigation by the administration authority, in the last decade, the Treasury Department has not conducted a single investigation on its own initiative under the countervailing duty or antidumping statutes. It is my understanding that Congress intends by this bill that the administering authority aggressively pursue investigations on its own initiative.

With respect to sections 702 and 732 of the bill, I ask the distinguished floor manager, is it not true that under section 702(a) and 732(a), a countervailing duty or antidumping investigation is to be commenced when the administering authority determines from any information before it that a formal investigation is warranted into the question of whether dumping or the importation of subsidized goods is occurring or threatens to occur?

Mr. RIBICOFF. The answer is, "yes."

Mr. DANFORTH. Would it not be fair to say that the legislation contemplates that if the information is present establishing the likelihood of the existence of the elements of a dumping or countervailing duty allegation then there is no discretion, but the administering authority must initiate a formal investigation?

Mr. RIBICOFF. Yes.

Mr. DANFORTH. Is it not the intent of Congress that the administering authority impose upon itself the same test to determine whether to self-initiate an investigation under sections 702(a) or 732(a) as it employs in determining the sufficiency of a petition under sections 702(b) or 732(b).

Mr. RIBICOFF. The Senator is correct.

Mr. DANFORTH. Now, with respect to initiation of countervailing duty or antidumping investigation by petition, in countervailing duty cases under present law, Treasury has almost total discretion in deciding whether to accept a petition for investigation. There is no time limit on the period during which Treasury reviews a petition before accepting it for filing and subsequent investigation. In antidumping cases, under present law Treasury has 30 days upon receipt of information to decide whether to initiate an investigation. There is no standard set in law. By regulation a petition is to be accepted if it contains information "sufficient to form the basis for an initia-

tion of an investigation." Under such a test, Treasury by regulation has total discretion.

Treasury, by regulation, has imposed burdensome informational requirements on petitioners. This has had a chilling effect on the filing of petitions, especially by small- to medium-size firms or industries.

Under section 702 (b) and (c)(1) (countervailing duty) and section 732 (b) and (c)(1) (antidumping), the administering authority must commence an investigation if it determines, from the face of the petition, that the petitioner has pleaded the elements necessary for the imposition of the applicable duty and the petition is accompanied by information reasonably available to the petitioner supporting those allegations. This determination must be made within 20 days.

My questions in this regard are as follows:

Is it not the intent of Congress that the administering authority use the same test in determining the sufficiency of a petition as our Federal courts, today, employ in determining whether a complaint states a claim upon which relief can be granted?

Mr. RIBICOFF. The answer is "yes."

Mr. DANFORTH. Should not the administering authority, like the courts, look only to the four corners of the petition—the pleading—and the information filed supporting the allegations and not elsewhere?

Mr. RIBICOFF. Definitely yes.

Mr. DANFORTH. Since, at this stage, it is not the intent of Congress to have ongoing an advocacy proceeding, petitions or information seeking to rebut the allegations should not be considered by the administering authority, is this not correct?

Mr. RIBICOFF. That is correct. This is not to say, however, that the administering authority, like a court, may not take "judicial notice" of facts within the public domain.

Mr. DANFORTH. How much supporting information should be required of the petition?

Mr. RIBICOFF. It is the intent of this legislation that the determination as to the information reasonably available to any petitioner be made in light of the circumstances of each petitioner.

Mr. DANFORTH. Should the "reasonably available" information requirement be the basis for the administering authority refusing to proceed with an investigation?

Mr. RIBICOFF. No.

Mr. DANFORTH. Mr. President, with respect to preliminary determinations under the countervailing duty and antidumping statutes, the preliminary determination is a crucial point in both an antidumping and countervailing duty investigation. That is because it is then that suspension of liquidation occurs—contingent liability attaches. It is like a yellow stoplight which signals that a red light is coming shortly.

Under this bill, with respect to countervailing duties, section 703 of the bill provides that within 85 days after a petition is filed or an investigation is self-initiated, the administering authority shall make a preliminary determination. The preliminary determination may be extended up to 150 days after the date on which a petition is filed. Under the antidumping provisions of the bill, section 733 provides that within 160 days after a petition is filed, the administering authority should make a preliminary determination. Expedited preliminary determinations may be made within 90 days after the commencement of the investigation.

The preliminary determination may be extended up to the 210th day after the date on which a petition is filed.

(Mr. HEFLIN assumed the chair.)

Mr. DANFORTH. My questions in this regard are as follows:

Under the legislation, when the shorter time periods for the preliminary determinations are not enough, more time is provided. However, in light of the importance of expeditious investigations, the statute narrowly circumscribes the administration's authority to extend the time period. Is it not the intent of Congress that extensions should be the rarest of exceptions?

Mr. RIBICOFF. The answer to the distinguished Senator from Missouri is, definitely, yes.

Mr. DANFORTH. Is it not the intent of Congress that the test the administering authority must use in reaching its preliminary determination is a low threshold test—a test based on the best information available at that time as to "whether there is a reasonable basis to believe or suspect"—statute. And, that this test envisions that, based upon this best available information, if on the face of the information sales at less than fair value exist or are likely to exist or a subsidy is being provided an affirmative preliminary determination must be issued.

Mr. RIBICOFF. The answer is, "Yes."

Mr. DANFORTH. When we talk about accepting a pleading or fact on its own face, it is not true, then, that the fact pleaded is presumed to be true unless disproved by information to the contrary?

Mr. RIBICOFF. The answer is, "Yes."

Mr. DANFORTH. Is not the language within both sections 703 and 733—"whether there is a reasonable basis to believe or suspect" the same as under current antidumping law?

Mr. RIBICOFF. Again, the response is, yes.

Mr. DANFORTH. But it is not the intent of Congress, by incorporating such language into H.R. 4537, to be an endorsement of past and current practices of Treasury in the making of preliminary determinations, is it?

Mr. RIBICOFF. The answer to the question is, "The Senator is correct."

Mr. DANFORTH. Under current practice, as was made clear by Treasury officials during the consultative meetings with the Finance Committee on this bill, for all practical purposes the preliminary determination was the final determination. It is the intent of Congress that such practice is no longer to be continued by the administering authority, is that not correct?

Mr. RIBICOFF. Yes, it is.

Mr. DANFORTH. Is it not true that the phrase "whether there is a reasonable basis to believe or suspect" envisions a low threshold test for the preliminary determination—a test that defines "reasonable" to mean within the bounds of commonsense and to "believe or suspect" to mean to surmise to be true or be probable?

Mr. RIBICOFF. Again, the response is, "Yes."

Mr. DANFORTH. Mr. President, with respect to the assessment and collection of duties, under current law, especially as it is applicable to antidumping cases, there are no time limits on the assessment and collection of duties.

According to a September 1978 GAO report of the administration of the Antidumping Act, the average delay in the collection of duties is 3 to 3½ years.

Sections 706 and 736 of this bill address these questions. It is to those sections that the following colloquy is addressed.

Is it not the intent of Congress to place an affirmative duty on the Customs Service to assess and collect special antidumping and countervailing duties?

Mr. RIBICOFF. Yes; and it is a duty in the nature of a ministerial task, a duty without discretion.

Mr. DANFORTH. By that the Senator means that any failure to perform would subject the Customs Service to the issuance of a writ of mandamus.

Mr. RIBICOFF. The Senator from Missouri is correct.

Mr. DANFORTH. With the exception of the provision for the 90-day period under the antidumping law, is it not true that during the interim between the publication of either an antidumping or countervailing duty order and the collection of the special duty, estimated duties are to be paid?

Mr. RIBICOFF. Yes; again, the collection of estimated duties is mandatory, subjecting any failure to collect to a writ of mandamus.

Mr. DANFORTH. While estimated duties are to be paid during the interim, the payment of estimated duties should not be reason for anything but an expeditious assessment of the final special duty, is this not correct?

Mr. RIBICOFF. The answer is "Yes."

Mr. DANFORTH. Now, with respect to verification of information.

There is no provision in current law requiring Treasury to verify information it relies upon in making decisions under either the antidumping or countervailing duty laws. Numerous complaints have been voiced concerning Treasury's practice on verification of information submitted to Treasury in countervailing and antidumping investigations, particularly information submitted by foreign governments.

For example, on January 1, 1977, a petition was filed with Treasury alleging that a number of programs instituted by the Government of Uruguay to its domestic leather wearing apparel manufacturers constituted the offering of a bounty or grant—subsidy. One of the offending practices was the use of export rebate certificates—known as a re-

integro tax—alleged to be at a rate of about 26 percent. An internal investigation by Treasury established that the use of reintegro tax may constitute an illegal subsidy practice. Throughout the spring, summer, and fall of 1977. Treasury investigated the allegations corresponding on numerous occasions with the Minister of the Uruguay Embassy in Washington to obtain information on the programs, specifically the reintegro tax.

In October 1977, Treasury and Uruguay officials met for 3 days. The result of those meetings was that Uruguay convinced Treasury as to the legality and fact of numerous offsets to the reintegro thereby reducing its rate from 26 to 11 percent. Uruguay further agreed to a plan whereby it would, over a period of time, eliminate its subsidy programs on leather products.

Once Treasury agreed to a significant reduction in the effective rate of the reintegro tax, then it could accept a gradual phase-out of the tax over a period of years, assuming that U.S. industry was not being significantly injured because of the reintegro program on Uruguayan leather exports.

At the culmination of the October 1977 meetings, Uruguay agreed to supply Treasury with the backup information justifying the rate reduction in the reintegro program.

In November 1977 Treasury met with representatives of the U.S. leather industry. The latter opposed the Treasury agreement with Uruguay on the ground that the reintegro was at a rate of 26 percent and offered facts and figures to disprove any reduction to 11 percent. Treasury refused to listen.

An internal Treasury memorandum of January 13, 1978 explains why Treasury refused to listen to U.S. industry arguments that the information given to Treasury by Uruguay was incorrect. This memorandum was written to Mr. Mundheim from a Mr. Self and was approved by Mr. Mundheim. To quote from page 5:

> Finally as to the allegation relating to Treasury's failure to verify the information it has received it is customary for the Department not to go through the standard verification process performed in antidumping investigations if the information is supplied by the government itself. So long as the government is willing to assure the accuracy of the data they present, it is not necessary that a verification be performed.

The memorandum went on to recommend that a final determination that bounties are being paid be issued for leather apparel but that a notice waving countervailing duties on certain products likewise be issued.

In early 1978, one of the petitioners in the Uruguay leather apparel investigation filed a Freedom of Information Act request seeking the supporting information as to the figures given Treasury by Uruguay at the October 1977 meetings justifying the reduction in the reintegro from 26 to 11 percent. A letter to that petitioner from Treasury dated May 10, 1978, said that such information was never received by Treasury.

In the new law, under section 776 of the bill, procedures for verification of information are provided, and it is to these provisions that my questions are now addressed.

Is it not true that under section 776 all information relied on by the administering authority in making a final determination in an investigation regarding either subsidized or less-then-fair-value imports must be verified unless in an antidumping investigation verification is waived under the procedure for a rapid preliminary determination?

Mr. RIBICOFF. The response to the Senator is "Yes."

Mr. DANFORTH. What if the administering authority is unable to verify the information submitted, say by a foreign government? Is it not true that the administering authority then must rely on the best information available, which may include the information submitted in the petition?

Mr. RIBICOFF. Yes. The bill also provides that whenever a party or any other person refuses or is unable to produce information in a timely manner and in the form required, or otherwise significantly impedes an investigation, both the administering authority and the ITC must use the best information otherwise available.

Mr. DANFORTH. With respect to hearings, under section 774 of the bill, hearings must be held by the administering authority before a final determination in either an antidumping or a countervailing duty case and by the ITC before its final injury determination under the same laws. There must be notice of the hearings published and a transcript prepared.

Are these hearings subject to the provisions of the Administrative Procedure Act?

Mr. RIBICOFF. No.

Mr. DANFORTH. However, in light of the changes embodied in the judicial review provisions of this bill (title X), specifically as relates to review under a substantial evidence test, is it not the intent of Congress that parties be afforded every reasonable opportunity to respond to information submitted by other parties?

Mr. RIBICOFF. Yes.

Mr. DANFORTH. With respect to judicial review and expedited appeals of interlocutory orders, my reference here is to section 1001 of the bill, which amends section 516 of the Tariff Act of 1930 by adding a new section 516A.

Is it not true that Congress decision in providing for appeals from either a negative preliminary determination or a decision to extend the time for such a determination—decisions which are interlocutory in nature—is because the preliminary determination is the crucial stage in either an antidumping or countervailing duty investigation? Further, it is crucial because an affirmative preliminary determination results in suspension of liquidation of the merchandise covered by the determination.

Mr. RIBICOFF. Yes.

Mr. DANFORTH. Would it be correct to say that Congress decided on an expedited appeal of these interlocutory orders so as to provide a check on any abuse by the administering authority in using the extended time for a preliminary determination, except in only the rarest of cases, or issuing negative preliminary determinations so as to get more time or employing something more than a low threshold test for its preliminary determination?

Mr. RIBICOFF. Yes.

Mr. President, before we complete this colloquy, I wish to state to the Members of this body that the Senator from Missouri, a member of the Finance Committee and its Subcommittee on International Trade, by his questions and his sharp intellect, has made a great contribution to all our work. I do not believe any other Member of this body has a broader grasp of this whole subject than does the Senator from Missouri. I compliment him and again state what a privilege it has been to work with Senator DANFORTH during this entire MTN.

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

Mr. RIBICOFF. I yield.

Mr. ROTH. Mr. President, as the Republican manager of the bill, I concur in each of Senator RIBICOFF's responses to the questions propounded by Senator DANFORTH.

I also think it is appropriate to recognize Senator DANFORTH's great contribution to the answer before us. Through his leadership, together with that of Senator BENTSEN, we now have effective and timely provisions by which the antidumping and countervailing duty laws shall be administered. This contribution, among the others he has made to our effort, is one of the telling reasons why the bill has such broad support. I appreciate his intelligence and contribution.

Mr. DANFORTH. Mr. President, I appreciate very much the forbearance of both managers of the bill in engaging in this colloquy, and I particularly appreciate the efforts of Senator RIBICOFF and Senator ROTH in connection with this bill.

Today, as a matter of fact, is the culmination of a very long, often somewhat tedious and dry effort, going back a couple of years, when, from my standpoint, I became interested in the question of trade procedures and the fact that the trade procedures we have had on the books have been basically unenforceable. It does not do very much good to have laws on the books if they are not enforceable.

So we undertook to get into the whole question of the procedural aspects of trade enforcement. In my office, we had the intrepid efforts of Kermit Almstedt, one of my legislative assistants, and other people, including Frank Melton, who is no longer in my office but who spent countless hours, days, and weeks going over the procedures involved. Throughout, we had great cooperation from Bob Cassidy of the Finance Committee staff and from the distinguished chairman and ranking minority member of the International Trade Subcommittee of the Finance Committee.

Also, the provisions which became S.

223 and then were incorporated largely into this bill, relating to procedures, were joined in by a number of cosponsors on both sides of the aisle, particularly and most actively by Senator BENTSEN, who, together with his staff, really proved to be invaluable in moving this effort forward.

The people with STR—the staff of the Special Trade Representative—and Ambassador Strauss, himself, were most cooperative in working out these exceptionally detailed, somewhat dry procedural aspects. I am convinced, as a result, that we have in this bill something which is going to be of real benefit to our economy in the United States and which will put international trade on a much more fair basis than it has been in the past.

Finally, it is almost unbelievable to me that here we are, about to vote on this implementing legislation of the MTN. It is a bill which is very, lengthy, very, complicated. It affects the economy of our country, and takes into account numbers of often competing and conflicting economic interests within the United States, while at the same time involving our relations with 80 or 90 countries around the world. This bill is going to have tremendous impact worldwide. And now we are about to vote on it with, as far as I know, no strong opposition whatever.

I think that this is a tremendous tribute to the great effort that was put in over a period of years by our Special Trade Representative and his staff. If anyone can work out a lasting peace in the Middle East, I am absolutely convinced it is Ambassador Bob Strauss. What a tremendous individual he is and what a remarkable team he was able to put together: Ambassador McDonald, Ambassador Wolff, Dick Rivers, and all the others who joined in this effort.

When it came to the Finance Committee, there were lengthy consultative hearings that were held and great involvement of members of the Finance Committee and members of the staff both within our committee and in the conference that was held with the members of the Ways and Means Committee. I think we have really done something which is a major step forward for the economy of our country and which will put us on a much better basis in competing in international markets than we have been to date.

We have a big step to take, as has been pointed out earlier by Senators RIBICOFF and ROTH, and we have to go forward with a new Cabinet-level Department of Trade. It is not enough to just have rules on the books and effective procedures on the books. We have to have an aggressive department which is able to implement and enforce the laws which we have.

I am most hopeful that the initiatives that have been taken by the distinguished managers of this bill will come to fruition when and if we have a Depart of International Trade.

I thank the floor managers for their effort.

Mr. BENTSEN. Mr. President, I was pleased to have joined with Senator DANFORTH earlier this year in sponsoring S. 223, the International Trade Laws Reform Act, which would provide timely and effective relief to American industries injured by unfair trade practices. Many of our original proposals are included in the MTN legislation now before the Senate. I know of his diligence and contribution to this piece of legislation and I enjoyed very much working with Senator DANFORTH. I believe we must now proceed with our other efforts such as the Export Trade Association Act which would encourage American firms, including smaller and medium-sized businesses, to participate in export activities on a joint basis enabling them to benefit from economies of scale and sharing of market information.

Mr. RIBICOFF. Mr. President, I am pleased to yield to the distinguished Senator from New York (Mr. MOYNIHAN).

Mr. MOYNIHAN. Mr. President, I thank our beloved colleague, if I can use that term.

Mr. President, I wish to follow from the remarks of my friend and colleague from Missouri in stressing the national debt to Ambassadors Strauss, Wolf, and McDonald, Mr. Rivers, Mr. Greenwald, and their colleagues.

I think the Senator from Missouri will agree that they were joined in this enterprise by two exceptionally dedicated, capable persons, the chairman of the Subcommittee of International Trade, the Senator from Connecticut, and his colleague Mr. ROTH, the Senator from Delaware.

That we are about to accept this momentous measure is a mark of the Senate's trust in these two men.

And if the Senator from Delaware will not mind my singling out our senior colleague I will do so. He will not again put a trade bill through the Senate, but there has never been one more noble in its purpose than the one we consider today. It is the singular fact of this bill that it does not repeat the patterns of the GATT negotiations of the last generation. It begins a new era, and it is a new era that has one specific purpose above all: To see that nontariff barriers to trade come down. It is an effort as momentous as that begun by Cordell Hull about a half century ago when he began the reciprocal trade agreements program of the U.S. Government. And when he did, it was clear in his mind, as in his pronouncements and those of President Roosevelt, that to speak about freedom of trade was also to speak about freedom in its larger sense. The relation between these two ideas—free trade, and broader principles of liberal democracy—persists.

What we have found is that the expansion of trade has been enormously successful. And this has been largely in response to American initiatives. But, the steady rise of state socialism and state capitalism has meant that more and more barriers are erected against American exports, and where subsidies result in more and more exports here. More than any other industrial nation in the world the United States has lost jobs through trade. And the region of the country I represent has suffered most. The purpose of this agreement is to stop that hemorrhage of American jobs and industries profits. I have worked to make that possible.

We have seen in the provisions for steel, textiles, leather, chemicals, and wearing apparel that the treaty is designed to meet those problems which are specifically before us. But it is also designed to deal with a new regime of dispute settlement in trade matters. We have never had that, partly because reduction of tariffs—the principal objective of previous trade negotiating rounds under the GATT left a kind of passive system. Tariffs enforce themselves. Now we have negotiated codes of behavior. For example the standard codes on American industry standards designed to protect such things as OSHA and the EPA regulations. We are not going to let other nations define what we believe and have written into law are sufficient health and safety standards for our society, just as we are not going to let them override and ruin one by one our industries through unfair competition.

But as to section 301 of the Trade Act, the international dispute settlement mechanism will only work if the executive branch makes it work, and there has been no one message more emphatic from first to last, from Senators RIBICOFF and ROTH and from their colleagues, than that we have not been satisfied with the performance of the executive branch in the past.

I recall the occasion of one of the hearings when I asked a Deputy Assistant Secretary of the Treasury responsible for the administration and enforcement of the antidumping and countervailing duty laws how much revenue had been collected in countervailing tariffs the previous year. Neither he nor anyone else in the room had the faintest idea. Such was their enthusiasm of application of existing law.

What we will have to have, if we are going to make a success of this dispute settlement mechanism, is a cadre of young men and women with fire in their belly brought to Government for the purpose of seeing that this works. They will have to know the high purpose of their responsibilities, knowing it to involve not only the question of freedom of trade but also questions of freedom of the world itself.

It is not going to be enough for people who are embarrassed to protect America and American jobs to have these responsibilities. It would have to be people who will know that this is a test of whether or not the world with real trade will deal fairly with us. If not, something of great value will be lost.

We are making the bet today that that will happen. We will have something to say about it as we deal with the President's proposed reorganization of trade policy. I know the Senators from Connecticut and Delaware have specific thoughts on that.

But I am here to say that I altogether support the bill before us, but I support it on the condition that the pledges made by the administration that American workers' jobs will be protected from unfair and often dishonest dealings will be

kept. They can be. But remember that the trust imposed upon us in recommending this bill to the Senate is a trust that extends past its passage this afternoon. It extends into a generation of trade practices ahead when Americans will train themselves and equip themselves to defend the rights which we obtain under this new treaty.

I ask unanimous consent that a statement by John Lyons, general president of the International Association of Bridge, Structural and Ornamental Ironworkers be printed in the RECORD. It is a statement which points to the kind of problems we must address in the implementation and enforcement of this bill.

I have received information about a small but vital industry, fabricated steel. Both union and management reflect concerns on the impact of MTN on these small businesses and workers, and I wish to present their concerns for the RECORD.

When the American Institute of Steel Construction in New York City traced imports of fabricated structural steel for a 6-month period in 1976, they found that the State of New York led all other States with 39,089 tons out of a total of about 99,000 tons imported to the United States.

For one State to absorb more than one-third of all imports of fabricated steel during the period studied means that New York bridges and buildings went up without American steel and without American fabrications, representing a loss of U.S. jobs as well as material.

We are all familiar with steel problems in Lackawanna, N.Y., and Youngstown, Ohio.

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

STATEMENT BY JOHN H. LYONS

Attached is a brief outline of problems involving one group of American workers in one not untypical industry affected by the MTN negotiations.

For a number of years we have been deeply concerned by the increasing levels of imports of fabricated structural steel, observing that current federal law and trade policy are insufficient to stop this massive loss of jobs, industry and technology.

Unfortunately, the recently-negotiated MTN trade package does little to address recent problems in this area, and it is feared that the proposed international trade codes will have even more adverse effects.

In terms of this specialized group of workers, and perhaps countless other American workers in many small businesses, the MTN agreements should be studied and debated further, before any vote on implementing legislation takes place.

At this point in time, matters covered by this proposed legislation which affect the livelihood of our citizens as well as principles of fairness in International Trade are still being negotiated in Geneva. Accordingly, it is just not good logic to rush into the most extensive changes in trade law and policy ever proposed without knowing fully how American workers will be affected by these changes.

Thank you for your close attention to this matter at a time when the United States suffers the largest trade imbalance in history. No other nation has yet taken legislative action on the MTN agreements, and yet the U.S. Congress is somehow expected to endorse a trade agreement which is still in the negotiating stage. We do not know, for example, exactly what tariffs are being cut and whether these cuts are unilateral or reciprocal. Restraint, study and perhaps re-negotiation are in order instead of hasty legislative action.

MULTILATERAL TRADE NEGOTIATIONS AND FABRICATED STRUCTURAL STEEL

On April 12, the U.S. and 23 other nations initialed agreements on sweeping changes in international trade. While across-the-board tariff cuts averaging more than 30 percent, with few exceptions, do not require Congressional approval, agreements on seven non-tariff international codes do require implementing legislation.

Such legislation is expected to be taken up by both houses of Congress this summer with unusual swiftness. No amendments or change are permitted in this up-or-down vote. Few Members of Congress will have the time to study and absorb the full ramifications of the codes which will alter virtually every aspect of commerce in the next eight years, as tariff reductions are phased in and codes are implemented. No previous trade negotiations have ever involved so many issues and changes in existing law. Implementing legislation involves nearly 400 pages.

The United States is the first of the 24 nations to implement these changes, and no one is certain of when or how closely other nations will conform to the April 12 agreements. Nevertheless, imports of fabricated structural steel should give pause to any rush for full Congressional approval of the MTN implementing legislation. Serious problems remain unresolved, and there is considerable concern that these problems may only be aggravated and intensified by the Administration's trade concessions.

BACKGROUND

For the first time in this International Association's 75 years of history, imports of fabricated structural steel became a grave concern reflected in the General President's Report to the 1972 convention. While such imports were previously localized on the West Coast market, fabricated bridge steel penetrated into the heart of America, in Dallas, Little Rock and Omaha. Efforts to pass strong legislation, the Burke-Hartke bill, to eliminate unfair trading practices and predatory pricing failed in Congress.

Devaluation of the dollar during the next three years contributed to decreased imports of fabricated steel, but by 1975 such imports, mainly from Japan, surged once again, creating renewed concern, reflected again in the General President's Report to the 1976 convention.

A year later, the Carter Administration dealt a severe blow to an ailing U.S. fabricated steel industry when the Treasury Department developed the so-called "trigger-price mechanism" for basic steel mill products. After numerous representations from this International Association, the Treasury Steel Task Force did agree to "monitor" closely imports of steel fabrications and "top-of-the-line steel items" to prevent diversion of imports from basic steel to fabricated steel.

However, the pledge to monitor proved to be a "paper tiger" promise. Underfunding and undermanning of the Steel Task Force meant a TPM without any monitoring of fabricated steel for more than a year. An "early-warning" monitoring system is still on the drawing boards. Meanwhile, imports of fabricated structural steel rose from 22,161 tons in 1976 to 42,796 in 1978.

The 1974 Trade Act proved worthless to stop "dumping" of fabricated steel. In early 1978, the Customs Agency rejected outright an Anti-Dumping Petition filed by the International Association after the Japanese bid 50 percent lower than American fabricators for a massive cable-stayed bridge in Luling, Louisiana. The Trade Act does not cover custom-made imports such as bridges.

With general recognition that 30 percent of all U.S. bridges being fabricated overseas, mainly in Japan, the battle for fair trade was then carried on at the state level. The Cedar Avenue Bridge in St. Paul became a symbol of obviously unfair trade when the Japanese bid low, despite enormous transport costs. Ironworkers in Minnesota, Iowa, Illinois, New Jersey and Rhode Island pushed energetically for domestic preference or "Buy American" legislation. On the federal level, a number of newly-enacted laws include domestic preference to discourage unfair trade practices that threatened to cripple or kill the vital but fragile steel fabricating industry.

Bridges are not the only import-sensitive items. Buildings, structures and even 16,000-ton offshore drilling rigs are affected. In 1979, for example, a runaway U.S. firm, Brown & Root, Inc. of Houston, stands to gain duty-free treatment for offshore oil drilling platforms under inadequate U.S. trade law, simply because they own a fabrication yard in Malaysia, a developing nation.

ANALYSIS

The 1979 MTN implementing legislation does virtually nothing to prevent continued abuses such as those outlined above. Instead, the U.S. stands to face a new set of problems with imports of fabricated steel sold below cost and continued export of U.S. jobs, engineering and technology.

Tariff Cuts. Upon invitation from the Labor Sector Advisory Committee in 1978, this International Association submitted a properly-developed "Exceptions Nomination" to exempt fabricated structural steel from across-the-board tariff cuts, reasoning that unfair trade practices resulted in at least 139 fabricating shop closedowns and severe job losses for Shopmen Ironworkers in one calendar year, 1976. The Exceptions Nomination was rejected without explanation in closed deliberations.

The TPM, coupled with unfair trade practices that remain unmonitored and without anti-dumping recourse, have caused severe problems for the U.S. fabricating industry since 1976:

IMPORTS OF FABRICATED STEEL INTO THE UNITED STATES

	1976	1977	1978
Value (in thousands of dollars):			
Fabricated structural steel	16,698	23,970	28,435
Fabricated columns, pillars, posts, beams, girders	31,723	46,601	41,947
Structures (hangers, buildings, bridges, and towers)	41,070	31,393	39,642
Fabricated steel platework	3,166	8,020	7,468
Floating structures	580	19,504	12,026
Selected metal containers	43,279	58,350	101,616
Boilers	19,961	22,111	26,023
Quantity (in tons):			
Fabricated structural steel	26,161	30,208	42,796
Fabricated columns, pillars, posts, beams, girders	61,766	98,224	83,720
Structures (hangers, buildings, bridges, and towers)	26,622	26,322	38,230
Fabricated steel platework	7,025	18,949	10,025

That tariffs should be raised instead of lowered is clearly illustrated in the above figures compiled by the U.S. Department of Commerce. Besides hefty increases in the imports of fabricated structural steel, in the first columns, "dumping" is apparent over the two-year period, with tonnage about 12 percent higher than dollar value increases. In light of such data, a tariff cut for fabricated structural steel is unwise and unwarranted.

For the U.S. to reduce tariffs by one-third after five successive years of record-breaking trade deficits does not make good economic sense, particularly when Japan is expected to lower their tariff rates by only one-fourth

and the EEC by one-fifth. When U.S. exports cost more and imports cost less, we can expect increased export of U.S. jobs. Most so-called "developing countries," such as Malaysia, for example, were among the 75 countries which did not initial the April agreement and stand to gain most from jobs lost in the U.S. and Canada. Following are steel fabricating workers' wage/fringe comparisons compiled by the U.S. Bureau of Labor Statistics for 1977, the most recent figures available:

	U.S. dollars	Index	Fringes
United States	7.80	100	32.2
Canada	7.66	98	21.7
Brazil	1.49	19	25.0
Japan	3.87	50	13.8
Korea	.62	8	15.2
Taiwan	.69	9	15.2
Denmark	6.83	88	17.4
France	5.29	68	70.5
Germany	7.32	94	54.2
Greece	1.92	25	30.0
Italy	5.09	65	94.4
Netherlands	8.04	103	71.4
Norway	8.77	112	40.1
United Kingdom	3.31	62	24.7

It will be noted that workers fabricating steel in Japan earn half the rate of U.S. and Canadian workers doing the same work. We can expect a lowering of wages or conditions in advanced countries if U.S. tariffs are cut for fabricated structural steel, especially when the U.S. intends to help developing countries to expand their trade through the same Generalized System of Prefrences which enables a U.S. company to send two offshore platforms to California from Malaysia this year, duty-free, constituting a loss of more than a million manhours of work for U.S. workers, plus unemployment and lost tax revenues.

CODES

The seven non-tariff codes, designed to reduce trade barriers and increase international trade, are a boon to many multinational corporations. But few if any U.S. fabricating shops have foreign subsidiaries, most are small businesses and most bid on jobs within a 200-mile radius. Some have little or no bearing on fabricated structural steel, while others pose serious questions. Among the most directly related are the following:

Subsidies and Countervailing Duties. Under the code, the U.S. anti-dumping statutes are revised but still do not allow for custom-made products, such as bridges or buildings of fabricated structural steel. Another avenue of unfair trade relief, the U.S. Countervailing Duty Statute, is also revised, now requiring test of injury due to foreign subsidies. So-called "upstream and downstream" components are not protected, and a rebate of any dumping penalty will be available if the dumped steel is then exported. It is difficult for U.S. private firms to compete as it is with fabricated structural steel coming from government subsidized, owned or insured firms overseas.

Standards. The United States and Canada presently have the world's highest standards for safety and health. Yet, under this new code, almost all state, local and federal building codes could come under international scrutiny. If welding certifications, for example, were found to be a "barrier to trade," an international tribunal could attack them or allow foreign trade retaliation. In turn, the President could exert "reasonable" pressure on state or local agencies to rescind those building, plumbing or electrical codes. As we see with the Clean Air Act, a federal cut-off of public works money for bridges or sewage plants could be termed "reasonable." Thus, "double jeopardy" for local building tradesmen, and a "lowest common denominator" theory of health and safety.

Government Procurement. For a number of years the trade union movement has felt that tax dollars should be spent on domestic workers, products and services. To spend tax dollars on imports is self-defeating. Nevertheless, under this code, federal "Buy American" provisions could be waived. It is not clear that "Buy Japan" policies would be changed, and it is very unlikely that U.S. shops would ever fabricate bridges for Japan. State "Buy American" laws, we are told, would not be affected, but when trade officials urge the Governor of New York to veto that state's mild "Buy American" bill a few days ago, we get a pretty clear picture of what to expect from federal trade officials if such a code is passed.

SUMMARY

The White House Office of Special Trade Representative predicts a swift passage of the Multilateral Trade Negotiations' implementing legislation in Congress. In the coming days and weeks we can expect a strong push from the White House to pass the MTN legislation, to bolster the President's image as a world leader if for no other more compelling reason. We can expect a strong push from multinational corporations which stand to benefit most from increased world trade that is freer but not necessarily fair. And we can expect to hear one-sided rhetoric, such as: one out of seven U.S. jobs are related to exports, without hearing how many U.S. jobs are lost to imports.

The strong reservations, doubts, and potential problems of imports of fabricated structural steel should give pause for closer inspection of the MTN codes and their impact upon all American workers. A staggering trade deficit, the largest in history during the past year, should cause the United States to reconsider a cut in tariffs.

We have plenty of time. The MTN bill does not have to be stampeded through Congress this month; previous legislation calls for a decision in 90 legislative working days. In fact, the bill gives the President authority to continue negotiating well into the 1980's, and it is a well-known fact in collective bargaining that from time-to-time we are compelled to go back to negotiations for a better deal.

Mr. MOYNIHAN. Finally, Mr. President, I would like to express once again my awe of the performance of the chairman who, in a career of public life, one thinks of the thousands of small acts from which he has built up the trust of his colleagues and the Nation. That trust has never been more in evidence, than on the floor this afternoon. It has never been more deserved.

I thank the Chair.

Mr. RIBICOFF. Mr. President, I want to thank the Senator for his generous and kind comments. We on the Committee on Finance are indeed fortunate that the distinguished Senator from New York chose the Committee on Finance.

Coming to the Senate with his vast experience in so many fields, he could have been designated to membership on any of the great committees in this body. He chose, and I believe he chose wisely, the Committee on Finance because he realized the multitude of basic issues within that committee's jurisdiction that affect the interests of our country, both domestically and internationally.

He has been a remarkable addition to the committee. His mind, intellect, his experience, and his sense of humor have all stood us in good stead. I am pleased that he asked to be placed on the International Trade Subcommittee because not only did we need his advice and counsel but we needed his hard work and his positive contribution.

Again my thanks to the distinguished Senator for his many contributions to this bill.

Before closing, we have all remarked upon the contributions of Ambassador Strauss. But equally important was the ability of Ambassador Strauss to meld together a great team. Helping him ably were Ambassador McDonald, who held down the important post in Geneva day in and day out through these negotiations. He served with great and outstanding ability the best interests of our Nation in undertaking the various negotiations in Geneva.

Ambassador Wolff also, from his experience in this entire field, made great contributions, handling some of the most difficult issues in the negotiations with great skill to the benefit of our country.

General Counsel Dick Rivers, who was chief of staff of the International Trade Subcommittee of the Committee on Finance before becoming general counsel of the STR, used his ability, his judgment, his common sense, and his cooperation with the staff of the Committee on Finance to help Ambassador Strauss and our committee come finally to the conclusion of the successful MTN negotiation and to the legislation before us today.

My thanks to you, Senator MOYNIHAN, for your gracious comments.

Mr. ROTH. Mr. President, I yield 3 minutes to the Senator from California.

Mr. HAYAKAWA. Mr. President, I am happy to have the opportunity to make a few very brief remarks about the trade bill, the result of the Tokyo round of the multilateral trade negotiations.

I intend to vote in support of this trade bill, and I thank Ambassador Robert Strauss and all those involved in these delicate and lengthy negotiations for their hard work and dedication. I want to explain my vote as one in support of the overall package, even though I do have some reservations about some particular portions of this package. We only have one opportunity to vote on this trade bill—there is no opportunity for any amendments to specific portions of this bill. I do maintain some reservations, but overall I believe the trade package to be a good thing.

The trade package is not perfect. The United States did not get absolutely everything we wanted out of these negotiations. However, I believe the total package represents steps in the right direction for our agricultural community.

I represent an agricultural State. The greatest agriculture producing State in our entire country. The MTN's are extremely important to our producers in California.

Most of our California producers are reasonably satisfied with the final result of this package—our cling peach producers are especially satisfied with these results. However, certain reservations have been expressed by our producers of dis-

tilled spirits and especially by our wine producers. The California wine industry feels strongly that the package will bring them unfair competition from Italy. This trade agreement is not open for amendment, but I do want to be on record as expressing certain reservations as to how the package will affect some of our producers.

The success of the Trade Agreements Act of 1979 will largely depend on the effectiveness of procedures for the settlement of disputes concerning unfair practices.

I would hope that the Congress will insure, through implementing legislation, a fair application of the Trade Agreements Act of 1979. The United States must be supported and protected so that our producers of all products, including our agricultural producers, will be afforded a fair opportunity for domestic sales and production with relation to imports and for a fair market situation in terms of exports.

I thank the Chair.

Mr. PROXMIRE. Mr. President, I ask the distinguished Senator from Delaware if he would yield me 2 minutes.

Mr. ROTH. I yield 2 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I am going to vote against H.R. 4537, the Trade Agreements Act of 1979.

Before explaining why I will cast my vote against this measure, let me point out that there are many positive features of this legislation.

This bill will lower trade barriers. It will make our Nation more competitive in bidding for foreign goods and services.

And a number of Wisconsin firms have indicated to me that this bill will produce results that have a favorable impact on their businesses.

But, Mr. President, the dairy industry and the dairy farmers of Wisconsin and the Nation are the big losers in this legislation. For that reason, I must oppose and vote against H.R. 4537.

The increase in cheese quotas to 276 million pounds under the trade agreement is 34 million pounds over last year's imports of 242 million pounds.

But this increase amounts to a 14 percent increase in milk equivalent or 350 million pounds, according to Truman Graf of the University of Wisconsin, who has studied this issue in great detail.

Graf points out that every 500 million pounds of milk equivalent imports results in a 9-cent-per-hundredweight loss for each dairy producer, according to USDA calculations.

So the increase will cost each producer 6¼ cents per hundredweight, or about $402 annually.

Under last year's import quota, 111 million pounds of cheese were imported. Most of the 242 million pounds of cheese coming in last year was, therefore, price break cheese, which, if priced at least 7 cents per pound higher than the U.S. support price, was not subject to import quotas.

But under the new agreement, cheese import quotas are raised to 276 million pounds, which is 165 million more pounds than came in under quotas last year.

The administration claims the agreement puts a cap on the price break because price break imports will no longer be allowed.

But, Professor Graf calculates that the result will really be that quota imports of 1.67 billion more pounds of milk equivalent will be permitted, an increase of 127 percent.

In addition, cheese import quotas are raised 149 percent. To each farmer, that represents an import quota protection loss of 30 cents per hundredweight, or $1,816 annually.

Moreover, each dairy farmer lost 35 cents per hundredweight, or $2,111, because last year's imports exceeded exports by 1.94 billion pounds.

This means a total cost for each dairyman of $3,927 annually.

Finally, administration advocates of the agreement say that only about 3 perment of the permitted additional cheese imports will be cheddar so competition resulting from increased import quotas to our major cheese industry will be minimal.

But the problem with this argument is, as Professor Graf has emphasized in his analyses, that displacement of dairy product caused by imports means that surplus milk will largely go into cheddar cheese and will therefore adversely affect the entire U.S. cheese and dairy industry anyway.

Mr. President, I recognize the hard work and excellent job the Senator from Connecticut, the Senator from Delaware, and others have done on this bill, and it does have very strong support. But I must oppose it for the reasons I have given. I thank my good friend from Delaware.

Mr. ROTH. I yield 2 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I would just like to go back in history a little bit for the benefit of my distinguished colleagues, Senator RIBICOFF and Senator ROTH. I have had such absolute confidence in the way they have handled this matter that I have not interjected myself into it.

It is with tremendous nostalgia that I speak now on this bill because in the early years of the Eisenhower administration, when it looked as though protectionist trends might begin to develop in our country, President Eisenhower, recognized, as a man who perceived the world in a very global sense and who perceived our role in that world in a global sense, that political friendships tended to follow the course of international trade. He saw the need to encourage trade, not to discourage trade through protectionist measures.

He, therefore, asked me as a businessman to help create a committee for a National Trade Policy, a private organization, because he felt it was best to have the initiative of the private sector in this area. I well recall this event. I was on the board of Burroughs Corp. and I became the legislative chairman, and, therefore, the lobbyist in Washington for a freer trade policy.

It was rather unique, because if any industry was a protected industry, it was ours. We had very high tariffs, tariffs running 40 or 45 percent on some of the major products that we manufactured, but I felt that this was a subsidy which we did not deserve.

I testified continuously against our industry for freer trade on a balanced basis. If someone was injured and hurt, he ought to be provided assistance and help, but astronomically high tariffs are hidden subsidies that lead to inefficiency in the protected industry and do not benefit the Nation as a whole.

I felt that we must gradually work toward marketing our products on an economic basis, free from hidden protection. I always judged products by how they sold in Hong Kong, a free market, to see whether they could stand on their own feet.

So it is with a tremendous sense of satisfaction I see now, on the floor of the Senate, general agreement when ordinarily there is heated and impassioned debate when measures for freer trade are discussed. When I testified for freer trade before the Committee on Finance, the committee rooms were jammed and packed, and every time we would bring up these issues on the floor it was an intense matter.

Thank heavens we have matured to the point where we realize the necessity for having freer trade. We realize that the worst thing we can do to our own economy is to protect and shelter certain segments of it and not expose it to the free world and free competition.

In the late forties and early fifties, we helped create the Common Market and strengthen Europe by encouraging larger markets and bringing down the barriers of tariffs and parochialism rampant on that continent. It certainly is befitting that we now take that traditional stand, as we consider the Trade Agreements Act of 1979, that goes back 30 years to when we suddenly became a great economic power and had the strength, the purpose, and perspicacity to know we should lead the world into freer trade.

The purpose of the Trade Agreements Act of 1979 is to implement the trade agreements negotiated by the United States in the Tokyo Round of the Multilateral Trade Negotiations by amending American law to: First, include a material injury test in countervailing and antidumping duty law; second, establish a new import valuation system for duty purposes; third, eliminate the American Selling Price (ASP) standard, converting items to a tariff schedule; fourth, permit the President to waive certain "Buy American" restrictions; fifth, eliminate tariffs on civil aircraft and parts; sixth, make concessions to foreign countries relating to cheese, chocolate crumb and meat; seventh, eliminate the current wine-gallon method of levying duty, thereby setting the duty in proportion to the actual alcoholic content; and, eighth, increase opportunities for judicial review in countervailing and antidumping duty cases.

The Tokyo round is potentially the most significant development in world trade since the founding of the GATT

over 30 years ago. It consists of four mutually supportive elements. The first element, representing the keystone of the Tokyo round, is a series of codes of conduct governing government intervention in nontariff areas which will set the basic guidelines for international trade relations.

A subsidies code will limit the ability of foreign governments to subsidize their industries and their exports. American competitors have been increasingly affected by such practices in recent years.

A code on product standards will make it more difficult for governments to set and operate product standards and certification systems in ways that will keep products out of their markets.

A code on government purchases will open up new markets abroad. Governments are the world's largest purchasers of nonstrategic goods—everything from paper clips to computers, and their markets have been virtually closed to American producers in the past. This agreement will open some $20 million in new foreign markets to our exports.

Other codes cover areas such as import licensing, customs valuation, and civil aircraft.

The second element of the Tokyo round is a major agricultural package which will provide substantial new market opportunities for American agricultural producers and, for the first time, an effective international mechanism for consultations on problem areas to avoid and settle serious disputes. As the world's largest agricultural exporters, we have the most to gain from a more cooperative system.

The third elements of the Tokyo round is a series of substantial industrial tariff reductions providing many new export opportunities for American firms. Tariffs were a smaller part of the Tokyo round than in six previous negotiating rounds, but they are significant in many specific product categories.

The fourth element is a long overdue updating of the trading system itself to take into account fundamental economic changes since the GATT was first established. For example, many new developing countries have entered the trading system. As a result of the Tokyo round they will be able to assume more responsible roles in world trade than they have in the past.

Mr. President, international trade in the post-war period has been a powerful stimulus to jobs, profits, and consumer choice. Trade has served as an engine of economic growth. The Tokyo round continues the trend toward trade expansion. It is the most ambitious and comprehensive of all seven post-war rounds, and provides many direct benefits to American producers, consumers, and workers, including:

Greater cooperation and better rules for the conduct of trade and management of related disputes in an age of increasing trade conflict;

Greater access abroad for U. S. industrial and agricultural exports; and

Lower prices for consumers and new job opportunities for workers in higher paying industries.

Congressional approval is critically important. As real as the benefits are, the downside risks, should Congress fail to approve the package, are even starker. Pressures for a return to protectionism throughout the world would be severe.

Our chief trade negotiator, Ambassador Strauss, took great pains to take the special needs of import sensitive industries into account by making less than called for tariff reduction offers to other countries. U.S. tariff offers were made selectively and will be phased in gradually over 8 years.

Industrial productivity has been lagging in the United States. We now rank among the lowest of OECD countries. The Tokyo round result will give business leaders the certainty they need to make long-range capital investment decisions required to increase productivity.

Mr. President, we must reject negative, self-defeating protectionism as a way of correcting our trade deficit. Instead, we must continue our efforts to remove tariff and nontariff barriers that impair the ability of U.S. firms to export. I believe the Tokyo Round is a major step in the right direction, and I urge my colleagues to support it.

In closing I wish to pay tremendous tribute to Senator RIBICOFF and Senator ROTH for the leadership they have provided in the Senate of the United States, and to express great admiration for the work that Bob Strauss has done. Ambassador Strauss is a genius in this area. I hope he can now take that genius into the Middle East. He really has done an absolutely remarkable job for our country; and as a member of the minority party, I say without hesitation, "Stay out of politics, Bob Strauss. Stay on these substantive issues, and give our Nation a chance, by working on these mighty issues such as peace in the Middle East."

Mr. RIBICOFF. Mr. President, I think the Senator from Illinois should have a major impact in the trade area, where he could use his knowledge and ability in fashioning real trade reorganization.

I yield to the Senator from North Carolina.

Mr. HELMS. I join in cosponsoring H.R. 4537, the Trade Agreements Act of 1979.

This bill is designed to implement the multilateral trade agreements that have been reached after 5½ years of very complex and tedious negotiations with our trading partners. The trade agreements are comprised of: First, tariff reductions, second, commodity arrangements of a consultative nature, and third, a series of codes governing the use of nontariff barriers in international trade.

As ranking minority member of the Senate Committee on Agriculture, Nutrition, and Forestry, I am particularly interested in the effects of the trade package on the U.S. agricultural community.

The future of no other sector of our economy is more intimately tied to international trade than that of American agriculture. The production of one out of every three acres farmed today is shipped to foreign markets. Last fiscal year American farmers exported 56 percent of the soybeans, 61 percent of the wheat, 68 percent of the rice, 35 percent of the tobacco, and 30 percent of the corn produced in this country.

The estimated earnings from total agricultural exports during the current marketing year will be $32 billion. That $32 billion is expected to yield a net positive trade balance of $16 billion. Were it not for our efficient and productive agricultural sector, the United States would be faced with an international trade deficit almost 50 percent larger than the wrenching deficit we experienced last year. Clearly the well being of farmers and of the Nation as a whole is dependent upon our efforts to expand agricultural trade abroad.

As a result of trade concessions received by the United States, the American farmer should experience by 1987 an annual increase in agriculture exports of $500 million. At the same time, due in large part to increased quotas for imported cheese, the United States will realize an annual increase in agricultural imports of $175 million. The bottom line, thus, shows a net annual increase of $325 million in the value of U.S. agricultural trade.

While the net agricultural benefits received by the United States during the trade talks are rather modest given the time and effort spent on the negotiations, there is a general belief that the trade package will generate additional gains for agriculture in the future by helping to disarm protectionist sentiment.

The benefits of the agricultural components of the various codes, particularly the subsidies and countervailing duties code, are not easily measured. And yet if U.S. officials actively enforce U.S. rights under these codes the American farmer could be relieved of part of the burden imposed by the unfair trading practices of other countries.

I am also pleased to note that many of the trade concessions received by the United States will accrue to the direct benefit of North Carolina. Some of the more important benefits to my constituents are as follows:

TEXTILE AND APPAREL

After finally being forced to recognize the vital nature of the textile and apparel industry to the United States and North Carolina in particular, the administration has established a comprehensive program to help restore order to the industry.

Under this program, the future growth of imports should be more in line with domestic market growth. This program includes global import evaluation on a continuing basis, control of import surges through bilateral agreements, efforts to negotiate tighter import restraint levels, and improvement of Customs monitoring and enforcement.

The United States has taken numerous steps to implement this program including tightening the import restraints with Hong Kong, Korea, and Taiwan; developing a new export program; and restricting imports from China in sensitive product categories. Imports of textiles and apparel decreased 20 percent in quantity in the first quarter of 1979

over the same period of 1978. By comparison, textile exports increased 52 percent in value in the first 3 months of 1979 over the first 3 months of 1978.

U.S. textile tariff reductions, where made were carefully chosen so as not to have an undue adverse impact on the industry. As a result of these negotiations, the average U.S. textile tariff will be reduced approximately one-third of the duty reduction called for in the agreed tariff formula. The United States paid greatest attention to products particularly sensitive to imports, fully exempting a number of products from duty reductions. Overall, the average textile and apparel duty will be reduced approximately 21 percent.

In addition, U.S. textile and apparel duty reductions will not begin until 1982 and then phased in over a number of years. The average textile apparel duty will be reduced only approximately one-half of 1 percentage point per year.

A "snapback" clause will restore U.S. tariffs to their pre-MTN levels if the international multifiber agreement does not continue in effect or a suitable substitute arrangement is not put into place. At the same time, important tariff reductions will be made by our trading partners in mill products, in which the United States enjoys a traditional surplus trade balance. The European Economic Community reduced tariff rates 28 percent on U.S. weaving mill products of manmade fiber. Canada reduced tariffs an average of 20 percent; Japan reduced tariffs 17 percent on yarn and thread mill products. The textile and apparel sector should benefit from the subsidies code's new disciplines on foreign subsidies as well as the improved domestic antidumping and countervailing duty procedures.

North Carolina is the leading textile and apparel State in the country. One out of every six textile and apparel jobs in the United States is held by a North Carolinian. These jobs are dispersed throughout North Carolina in 89 of the State's 100 counties.

FURNITURE AND FIXTURES

This industry, one of the major employers in North Carolina, should benefit from the reductions in Canadian tariffs and the deeper-than-average cuts in developing-country tariffs. Canada, the largest export market for this industry, reduced tariffs 27 percent. The developing countries reduced tariffs 47 percent on the average. North Carolina furniture and fixture manufacturers should also benefit from the licensing code and the subsidies codes. Caldwell, Catawba, and Davidson Counties are important furniture and fixture manufacturing centers.

LUMBER AND WOOD PRODUCTS

This industry should benefit from the standards code and the subsidies code which are priority interests of the lumber and wood products industry. In addition, the MTN results in several specific benefits to this industry, including an expanded quota from the European Community (EC), revisions of the Japanese lumber standards a change in the EC definition of plywood thickness and a committment by the Japanese to harmonize plywood standards by 1982 on the basis of performance.

Lumber and wood products also will benefit from the tariff cuts negotiated in the MTN—Canada reduced tariffs 54 percent.

TOBACCO

The EC has agreed to an effective reduction of tariffs by combining tariff lines and applying a lower rate to the more expensive unmanufactured tobacco. The impact of this change will be to increase the competitive position of U.S. tobacco in the EC in the future. Other countries offering reductions on tobacco include Canada, Finland, Australia, and New Zealand. Tobacco concessions by other countries are expected to increase U.S. tobacco exports by $80 million. The leading county for tobacco manufacturers is Forsyth, employing the bulk of North Carolina's employment in this industry.

SOYBEANS

A major agricultural benefit for North Carolina is the binding of soybeans at zero by Japan and Mexico. Zero bindings require a country to pay substantial penalties in trade concessions if they ever choose to charge any tariff on the item. The European Community, for example, agreed to zero bindings on soybeans in the 1960's, requiring them to give up trade concessions valued at $2.5 billion in the event that they decide to increase their soybean duty.

Thus, bindings provide a form of insurance which allows private business to develop markets on the basis of competitive advantage without fear of sudden tariff increases. Additional concessions include a tentative Mexican offer to allow unlimited imports of soybean meal and tariff concessions by Canada on soybeans and soybean oil.

FEED GRAINS

Concessions on feed grains in developing countries will increase U.S. sales abroad by an estimated $26 million.

Peru and Ecuador have agreed to liberalize procedures for the licensing of imports of grain for feed. The values of these concessions is estimated to be $3.1 million in trade to Peru and $7.5 million in trade to Ecuador.

Taiwan will emphasize the sorghum and corn tariffs, increasing sorghum grain exports by $6 million.

DAIRY PRODUCTS

In the MTN the strong interests of dairy producers and consumers were balanced.

The United States will increase its overall quota levels for imports by about 15 percent, while at the same time putting a greater proportion of imports under quantitative limitations. In 1978, about half of all cheese imports were under quota. Once the newly negotiated agreement goes into effect, approximately 85 percent of total cheese imports will be under quota, assuming that the quotas are completely filled.

Cheese remaining outside quota will be limited to such specialty items as Stilton from England, Roqueford from France, sheep and goat's milk cheeses, and soft-cured cheese in retail packaging such as Brie and Camembert. The new import system will incorporate under quota the current price-break system which permitted unlimited imports of certain high-price cheeses. The new import system will also prevent subsidized cheese imports from undercutting the domestic wholesale price.

Cheese imports in 1977 totaled 95,015 metric tons (MT), in 1978, 109,878 MT, and are expected to continue to rise throughout 1979 because of strong demand and rising meat prices. Under the new quota system, imports in 1980 and beyond are estimated at about 111,000 MT quota cheese and about 14,000 MT of nonquota cheese. For the next few years, cheese imports as a percentage of total U.S. consumption will therefore remain close to their average of the last several years. (6.2 to 6.3 percent).

PEANUTS

The United States gained important concessions on peanuts and peanut products. The European Community agreed to bind its duty on peanuts at zero. Canada agreed to reduce its duties on both crude and refined peanut oil, and Korea agreed to both reduce its duty on peanut oil and grant automatic licensing for imports of that product.

POULTRY

The Japanese have reduced their duty on chicken legs from 20 percent to 10 percent. The European Community has offered to reduce the duty on drumsticks, thighs, and breasts of turkeys by using new coefficients in calculating gate prices and levies on turkey. Further, the European Community has agreed to continue to classify uncooked season turkey in a fixed tariff category, avoiding the variable levies of the common agricultural policy.

Unquestionably, this trade package offers great promise for the people of North Carolina and the rest of the United States. But that great promise could turn to bitter frustration if our leaders fail to actively assert our rights as a party to the trade agreements and are hesitant to take appropriate actions against those nations that violate the provisions of the trade codes.

I intend to keep a watchful eye on those charged with enforcing this trade legislation and I will press for countermeasures, where necessary, against those who seek to take advantage of us through the means of unsavory trading practices. Some of the tools needed to make significant progress toward eliminating our international trade deficit are in S. 1376. What we need now are the leaders to wield them.

Mr. ROTH. Mr. President, if I may make a brief statement, I would like to point out to my distinguished chairman that the Trade Agreements Act of 1979 is the result of a unique procedure of consultation between the executive and legislative branches.

One consequence of this procedure has been to place an unusually heavy burden on our committee staff. Over the past weeks, months, and several years, the staff has closely monitored the MTN negotiations and spent long hours on draft-

ing this legislation and the committee report.

I wish at this time to recognize and thank the trade staff of the Senate Finance Committee—Robert Cassidy, Bill Finan, David Foster, Rick Johnston, and Chip Roh, as well as Charles Morrison of my personal staff. These gentlemen have done an outstanding job in making this legislation possible. I congratulate and thank each of them.

● Mr. STEVENSON. Mr. President, I support the Trade Agreements Act of 1979. Expansion of international trade is one of the most important challenges this country faces. In particular we must increase out exports. Reduction of nontariff barriers is vital to this goal.

I commend Ambassador Strauss and those who worked with him for achieving notable reductions on nontariff barriers. Long and tedious negotiations were required to induce national governments to change important domestic policies affecting trade.

Approval of the trade agreements will mean reduced tariffs and nontariff barriers—and increased competition to promote exports.

Nations will remain heavily dependent on imports including increasingly expensive imports of fuel and will continue to have every incentive to fight for the world's markets with everything that they have available to them. More and more countries are coming onstream, including LDC's, combining high technology, low resource and labor costs, and aggressive marketing.

Taiwan is now exporting television sets and steel to Japan.

The agreements create a significant opportunity for American industry and agriculture. It is primarily up to the farmers, the businessmen, all the commercial enterprises of the country to take advantage of that opportunity.

The Government can help, and one of the most helpful steps is to reduce the barriers and disincentives this Government throws up against our own exporters. We took action in the Senate last Saturday on a measure, S. 737, the Export Administration Act of 1979, which will reduce export controls and increase the efficiency of export licensing. The International Finance Subcommittee has begun hearings on a bill, S. 339, sponsored by Senator HATFIELD and myself, which would put us on a more competitive footing in trade with Communist countries.

The Government's efforts to assist U.S. exporters are in serious disarray. Trade reorganization is needed to focus our efforts on strengthening U.S. trade competitiveness, especially in agriculture and high technology products. I have introduced a bill, S. 1493, to establish a Department of Commerce, Trade and Technology. Several other bills on trade reorganization have been introduced or are in the offing, and I trust the Senate will attach high priority to this matter.

American firms have relied too long on the large domestic market to provide sales and protection from foreign competition. Small and medium-sized companies are beginning to learn that a product which cannot compete abroad will soon face foreign competition at home. Exports offer both expanded sales opportunities and the lessons of international competition.

We must do more to encourage U.S. companies to compete abroad. U.S. trading companies could help smaller U.S. manufacturers establish overseas markets for their products. I will shortly introduce legislation to facilitate the formation of such trading companies. Two bills, S. 864 and S. 1499, with similar objectives have been introduced by my colleagues Senators DANFORTH and ROTH. The International Finance Subcommittee will hold hearings on all three bills in September.

Government-supported export credits are not covered by the trade agreements. Efforts to negotiate tighter restraints on export credits have broken down. The United States faces tougher foreign competition supported by subsidized credits in the next year, yet the limit placed on Eximbank credits to meet foreign competition are arbitrarily low. A new round of talks to halt subsidized export credit competition should be held at the first opportunity, but it is clear that other countries will not negotiate in good faith until we put some teeth in our export policy.

Nonetheless. the Trade Agreements Act is a notable achievement and I am pleased to give it my strong support.●

● Mr. KENNEDY. Mr. President, I want to express my support for these trade agreements which will have a major impact on world trading patterns for years to come.

For the first time, we have made significant progress toward the reduction of nontariff barriers to trade. These barriers—including foreign government subsidies, Government procurement codes and licensing and standards codes—have often prevented free and fair competition in the world marketplace. Following up on the progress made during the Kennedy round of negotiations, the latest Tokyo round of trade talks resulted in a major step forward toward reducing these barriers to trade. The result will be higher levels of U.S. exports and more jobs for all Americans.

The President's special trade representative, Robert Strauss, was handed a tough job when he took over as chief negotiator at the Tokyo round of the MTN. The task required that he be particularly sensitive to the needs of domestic industries which have been hurt most by rising imports. And nowhere are we more sensitive to this problem than in New England.

My region of the country has been plagued by high levels of imports and resulting massive job losses. Imports of products such as textiles and shoes have wiped out entire industries in New England. I have seen the empty textile mills in Lowell and Fall River, the empty footwear factories in Lawrence. These industries deserved special attention during the Tokyo round. I was pleased to have had the opportunity to discuss these issues with our negotiators in Geneva last year, and have subsequently had numerous talks with Ambassador Strauss in order to assure that the agreements represented a fair and balanced package.

I believe that the administration was responsive to our special concerns in New England and other regions of the country. A few years ago, we worked out bilateral agreements with Taiwan and South Korea calling for rollbacks of footwear imports. Working with the industry, a program was developed aimed at revitalizing American footwear manufacturing. Recently, we have been concerned that our bilateral agreements have not been properly enforced. We now must make a renewed effort to make them work.

After long negotiations, an import relief package was agreed upon by the administration which is aimed at strengthening bilateral agreements and designed to prevent "surges" of textile and apparel imports. Tariff concessions on textiles and apparel were minimized, and new negotiations began with the People's Republic of China in order to limit imports. These are all positive steps. The 73,000 textile and apparel workers in Massachusetts now expect the administration to follow through and assure that the promises are kept.

I believe that the MTN package represents a realistic trade policy, a policy which is both sensitive to the needs of our more vulnerable industries, yet designed to promote growth by permitting American industry to better compete in foreign and domestic markets. Our trade policy must reflect the twin goals of increased exports and more jobs for all Americans.

In the last few years, we have seen skyrocketing oil prices, worldwide recession, serious and prolonged inflation. international monetary instability, and the emergence of a number of developing countries as major exporters of manufactured products. All of these events have led to fundamental shifts in the patterns of trade between nations, and to major trade imbalances.

The lessons of history teach us that our trade policy mirrors the aims and aspirations of this Nation.

In protest against a tariff in the year 1773, the people of Massachusetts threw shipments of tea into the Boston Harbor, and took a major step toward the American Revolution. During the Great Depression, our Nation moved into isolation. We retreated into a virulent form of protectionism that reached its peak with the passage of the Smoot-Hawley tariff, a law which only served to prolong and deepen the depression.

Fortunately, in the post-war era, we succeeded in reversing this trend toward isolation and protectionism. We opened the doors of trade, and entered a period of unparalleled economic growth and prosperity. The early 1960's saw continued growth, and the Kennedy round of trade negotiations resulted in further reductions of trade barriers.

To retreat now would be disastrous. We know the importance of exports to the economy of my State of Massachusetts. Exports of manufactured goods produced

in the Commonwealth now total over $2.5 billion a year, and are rising four times as fast as overall production. Over 72,000 jobs are dependent on exports—about one out of every eight manufacturing jobs in the State.

While it is clear that we did not get everything we wanted in the Tokyo round, important progress was made in opening up new markets. While previous rounds of the multilateral trade negotiations centered on reductions in tariff barriers, the Tokyo round concentrated on the difficult job of reducing more insidious nontariff barriers, and developing international codes of fair conduct in trade between nations. New rules have been negotiated to reduce Government subsidies, to open up Government procurement, to rationalize product standards and custom valuation, and to crack down on commercial counterfeiting. These rules will help key industries in New England—machinery, electronic and medical equipment, instruments and others—compete in foreign markets. They will serve to expand exports and create more jobs for the American worker.

But the results of the Tokyo round alone will not be enough to promote exports and turn around our unfavorable balance of trade. A sound energy policy can begin to reduce our excessive reliance on imported oil. And much more needs to be done to increase U.S. exports of manufactured products. Inadequate financing mechanisms, lack of capital, lags in research and development, and poorly coordinated Government assistance programs all serve to thwart our efforts to boost exports.

In this regard, two recent developments will serve to help. Just last Saturday, the Senate passed the Export Administration Act in order to streamline export licensing procedures. Also last week, the administration proposed a reorganization of the Federal Government's international trade functions. I am hopeful that this proposal will encourage early congressional action on legislation designed to better coordinate Government trade policy and programs.

I look forward to a new era of international trade. I look forward to new partnerships forged by business, labor and Government to promote exports. This vital package of international trade agreements brings us closer to these goals. It is a fair and balanced package designed to spur growth and create jobs.

With its passage, we can seize new opportunities for orderly and fair trade, and bring further prosperity to all Americans.●

● Mr. MUSKIE. Mr. President, I would like to briefly outline the revenue impact of the Trade Agreements Act and its consistency with the first concurrent resolution on the budget for fiscal year 1980.

The Trade Agreements Act would reduce revenues by $83 million in fiscal year 1980 and $108 million in fiscal year 1984. This revenue loss is due primarily to the shift to the proof-gallon basis for assessing taxes and import duties on distilled spirits.

Additional tariff reductions totaling $247 million in fiscal year 1980 and $1,597 million in fiscal year 1984 were also negotiated during the multilateral trade negotiations. These tariff reductions can be made by the President under existing authority, and they are therefore not included in the bill now before us.

The Trade Agreements Act is consistent with the first budget resolution for fiscal year 1980. The first budget resolution revenue floor assumes that any legislation reducing receipts in fiscal year 1980 will be offset by other legislation raising revenues by an equivalent amount. The revenue loss associated with this bill now appears certain to be more than offset by revenue gains from a windfall profit tax or other revenue raising legislation.●

● Mr. TALMADGE. Mr. President, I support the Trade Agreements Act of 1979, H.R. 4537. This legislation implements the Tokyo round of the multilateral trade negotiations, which have been going on since the fall of 1973.

While the concessions were not all that I would have liked, the trade package should be helpful in increasing U.S. exports—particularly in agriculture.

I need hardly point out the rapid increase that has taken place in our agricultural exports in recent years. From $6.7 billion in 1970, our agricultural exports have expanded to over $32 billion this year.

This legislation—while expected to yield a further increase of only about $500 million in new agricultural exports—should be helpful in dealing with nontariff barriers and continuing the spectacular growth of the past decade.

The greatest agricultural concessions were received in the area of livestock and animal products, with an anticipated trade gain of about $250 million. Beef is the major beneficiary, but pork, poultry, and animal byproducts sales would also increase.

Our livestock groups felt that the trade barriers should be reduced even further, but our negotiators feel that they obtained the maximum benefits obtainable at this time. It is to be hoped that the livestock concessions gained, particularly in the case of Japan, will be the beginning of more open and freer trade with that country.

I would also like to point out that important concessions were received under the MTN in tobacco trade, which is anticipated to yield an additional $85 million. The bulk of this concession is accounted for by a concession from the European Economic Community, which is likely to result in about $75 million in increased tobacco exports. A significant concession by Australia is expected to yield further tobacco exports of nearly $8 million.

Important concessions were also received in fruits and vegetables, which are expected to yield additional exports of about $63 billion. The bulk of these concessions were made by Japan, and it is to be hoped that these modest gains will be but a start in obtaining improved access to the tightly controlled Japanese market.

I would also like to point out that important concessions were received with regard to our soybean exports. Japan agreed to fix or bind its present duty at zero, and this should be helpful in meeting future competition. Other soybean concessions were received that are anticipated to yield about $83 million in additional exports.

Mr. President, I should point out that our dairy producers are concerned over the revised cheese quotas, which will at least initially allow further cheese imports. The Department of Agriculture argues that the revision of quotas will bring increased protection by limiting the growth of cheese imports in future years.

Our Committee on Agriculture, Nutrition, and Forestry will follow this area carefully to assure that the needs of our dairy producers are not overlooked.

In conclusion. I should point out that we will need to use the MTN as the beginning of a national effort to expand our trade and strengthen the dollar. We must monitor the trade agreement carefully, and I know that the Congress will give careful attention to the administration's proposal to reorganize the Government's trade role.

Our Agricultural Trade Advisory Committee played an important role in providing the necessary expertise to carry out these negotiations. We should make every effort to continue to use this capability in implementing the MTN package.

I would like to congratulate Ambassador Strauss and his staff on their success in completing these negotiations. Also, I commend the Senators and staff for their diligent efforts on behalf of this legislation.●

● Mr. NELSON. Mr. President, H.R. 4537, the Trade Agreements Act of 1979, is the culmination of 5 years of negotiations among the United States and 98 other countries. This herculean effort has resulted in major revisions of international trading rules affecting tens of thousands of commodities.

Taken as a whole, the package of trade agreements reached at Geneva is an impressive monument to the skill and perserverence of our trade negotiators. Similarly, H.R. 4537, the implementing legislation hammered out over months of negotiations between the Congress and the administration, represents an exemplary piece of executive-legislative cooperation.

In large part, the trade pact has met the goal, established by Congress in the 1974 Trade Reform Act, of reducing and, where possible, eliminating tariff and nontariff barriers to international trade.

At the same time, H.R. 4537's promise of increased export opportunities for United States concerns, coupled with expedited administrative procedures to combat unfair foreign trade practices, has won its broad support from U.S. industry and agriculture alike.

As in any negotiation, in order to win concessions, one must make concessions. In terms of those the United States made, unfortunately, the burden fell much more heavily on some economic sectors than on others. The dairy industry is

among those most distressed over our negotiators' work in Geneva. It is for this reason that I regret I must vote against H.R. 4537.

A healthy, thriving dairy industry is extremely important to the Nation and to Wisconsin. Wisconsin produces far more cheese—almost 40 percent—and milk—17 percent—than any other State in the country. There are nearly 2 million dairy cows in farms across the State, producing more than $2.1 billion worth of milk.

In addition, Wisconsin ranks second in the production of butter in the United States, and is among the leaders in producing buttermilk, whey, lactose and nonfat and skim milk.

DAIRY-RELATED PROVISION IN THE MULTILATERAL TRADE AGREEMENTS

The following table, showing the dollar value of U.S. agricultural concessions made and received at the multilateral trade negotiations, demonstrates that dairy sacrificed the most for U.S. concessions won in other areas. The figures speak for themselves: Our negotiators gave concessions on a whopping $328 million worth of dairy-related trade in return for winning concessions on only $12 million worth.

Balance of MTN concessions granted and received by commodity group, all countries (based on 1976 trade)

[In millions of dollars]

	Concessions granted	Concessions received
Grains	$126	$592
Oilseeds	397	1,033
Livestock	1,297	916
Dairy	328	12
Poultry	39	52
Fruit and vegetables	272	398
Cotton	23	138
Tobacco	35	459
Other	583	109

Total concessions granted: $2.8 billion.
Total concessions received: $3.7 billion.

Specifically, the dairy industry objects to three changes in current law agreed to by U.S. negotiators:

First. The addition of an injury test to the U.S. countervailing duty statute.

The current countervailing duty statute, part of U.S. law since the 1880's, directs the Secretary of the Treasury to levy an extra duty on foreign exports to our market which are assisted by a subsidy. Under this law, use of the subsidy alone makes out a violation.

The statute was enacted to prevent foreign subsidized goods from competing unfairly with goods produced and sold in the United States. Many of our trading partners use export subsidies in order to protect domestic industries and employment, by enabling their less efficient producers to compete in the U.S. market on equal terms with their American counterparts.

In effect, then, subsidization enables countries to export their unemployment along with their goods. When subsidies accompany imports to the United States, private concerns here are forced into a competition heavily weighted against them, because they must compete not only with their foreign counterpart, but with its government's treasury as well. Imposition of a countervailing duty, then, is important to neutralize the unfair advantage the subsidy confers on the export.

In practice, however, U.S. authorities failed to enforce the law effectively. In 1973 alone, for instance, the Common Market paid more than $26 million in subsidies on dry milk, cheese, butter, and butter oil shipped into the United States. And yet, we did not countervail against this practice. In 1974, 100 million pounds of cheese and 150 million pounds of dry milk, much of it heavily subsidized by foreign countries, were imported into the United States, causing vast disruption in American dairy markets. And still we did not countervail.

The statute had atrophied from so little use. In an effort to insure its enforcement, I proposed several amendments to the 1974 Trade Reform Act, which Congress approved. These measures for the first time imposed specific time limits within which the Treasury Secretary must act on a charge of foreign export subsidization.

However, the 1974 Trade Act also contained authority for the President to waive the imposition of countervailing duties through January of 1979, if he could make specific showings that a given waiver would assist our efforts to reach a new subsidy/countervailing duty code with our trading parties at the trade negotiations. The President has liberally exercised this authority, especially with respect to dairy products.

Since passage of the 1974 Trade Act, the President has waived the imposition of countervailing duties 19 times. The amount of trade affected under these waivers has been about $600 million, translating into about $40 million worth of uncollected countervailing duties. The six waivers covering dairy products resulted in no countervailing duties being collected on $160 million worth of dairy trade, about one-fourth of the total.

Our negotiators in Geneva, however, have succeeded in making this bad situation even worse. They gave in to European demands that the United States make it even more difficult for domestic concerns to win relief under the countervailing duty law. Thus, once H.R. 4537 has passed, an American farmer or businessman will have to prove not only that a foreign government employs a subsidy, but also that he has been injured by it, before our Government will take steps to countervail the practice. Such proof of injury is a time-consuming, expensive, and extremely difficult task.

Second. The expansion of cheese import quotas.

The new agreement will (a) place all price-break cheese—foreign cheese which enters the U.S. market at a price 7 or more cents higher than the Government's buying price for American cheddar cheese—under quota, and (b) expand the newly-constituted quota by an additional 30,000 metric tons over the total volume of cheese imported into the United States in 1977.

Placing price-break cheeses under quota is a helpful and responsible step. These imports, many of which are subsidized, are currently restrained only by market forces. This action will increase the percentage of imported cheese under quota from 50 percent to 85 percent.

As the table below shows, imports of price-break cheese into the United States have sharply increased over the last dozen years. Putting such cheese under quota will help bring some much-needed stability and predictability into the marketplace.

UNITED STATES: IMPORTS OF CHEESE BY QUOTA STATUS 1966–77 AND UNOFFICIAL FORECASTS [1] FOR 1978–84

[1,000 Mt]

Year	Under Quota [2]	Above "Price-break"	Miscellaneous nonquota	Total
1966	45.4	7.4	8.6	61.4
1967	53.2	7.4	8.2	68.8
1968	58.4	9.8	9.1	77.3
1969	38.0	17.4	9.9	65.3
1970	36.5	25.5	11.0	73.0
1971	29.9	22.5	9.2	61.6
1972	36.4	32.7	12.3	81.4
1973	71.4	23.4	9.4	104.2
1974	90.5	43.6	9.0	143.1
1975	41.6	30.7	9.1	81.3
1976	44.1	40.7	9.2	94.0
1977	48.2	37.8	8.9	94.9
Unofficial forecasts:				
1978	50.0	42.8	9.2	[3] 102.0
1979	46.0	46.8	9.2	102.0
1980	50.0	49.8	9.2	109.0
1981	46.0	53.8	9.2	109.0
1982	50.0	56.8	9.2	116.0
1983	46.0	60.8	9.2	116.0
1984	50.0	62.8	9.2	122.0

[1] Assuming current quota system is maintained as is.
[2] Some quotas currently in force were established during the period covered. Figures show what would have been subject to quota if all current quotas had been in place.
[3] Actual 106.

Dairy farmers worry that, as in the past, this new quota will serve only as a springboard for additional increases a few years hence. The administration will make no commitment to the dairy industry not to raise the new quotas, even though the special trade representative has touted the new quota arrangement principally on the basis that it will put a "cap" on foreign cheese imports, implying some degree of permanence with respect to quota levels.

Moreover, even if quota levels remain constant, dairy farmers are concerned over the possible effects of the expansion of cheese quotas by 30,000 metric tons over total 1977 imports. While the administration projects that cheese imports as a percentage of domestic production will remain stable, at or about the 6.2 percent level for the next several years, this assumes that cheese quotas will not be increased and that the domestic cheese market will maintain its current strength. Independent dairy economists are not at all sure that those assumptions are realistic.

Third. Explicit U.S. permission to foreign governments to subsidize their cheese exports to the U.S. market.

Perhaps the most worrisome of the cheese deals struck at Geneva is the following: In return for agreeing to a U.S. quota on nearly all types of cheese, the foreign cheese-exporting nations will be allowed to subsidize their exports, as long as they do not undercut the U.S.

domestic wholesale market price of similar cheese produced here.

This provision on subsidies must be placed in its broader context, to show how disfavored cheese is in the MTN schema. The new trade agreements impose a flat ban on the use of export subsidies for industrial products. In addition, the signatories agreed to more restrictive rules governing the use of export subsidies on agricultural products generally. But, when it comes to cheese, the United States has literally blessed the practice.

THE IMPLEMENTING LEGISLATION

As a member of the Finance Committee, which has jurisdiction over international trade legislation, I worked very closely with other Senators and with the administration to make the trade agreement's dairy provisions as equitable as possible to the dairy farmer. Under the 1974 Trade Reform Act, the Congress was foreclosed from making any changes in the trade agreements themselves; only the implementing legislation was subject to revisions. H.R. 4537 reflects, in sections 701 and 702, the substantial improvements we were able to make in the administration's original legislative proposal.

In the main, these address two concerns: First, that the United States establish an effective mechanism to enforce the commitment by foreign cheese exporters not to undercut U.S. market prices for similar domestic cheese; and second, that the Government guarantee dairy farmers the opportunity to testify at full public hearings before any proposed increases in section 22 cheese quotes take effect.

With respect to the price-undercutting commitment, the administration's original implementing legislation contained no credible mechanism for enforcement.

Because of this, I pushed in committee for an effective price-monitoring and enforcing procedure totally under the control of the Secretary of Agriculture.

Under this plan, which has been accepted by the administration (sec. 701(a)-(d)), the Secretary will continuously monitor foreign subsidy practices and prices of imported cheese. Whenever any person affected charges a violation of the price-undercutting commitment, the Secretary will be required to conduct a "fast-track" investigation.

The plan requires the Secretary to complete his investigation in 30 days. If a violation is found, the exporting country would be required to end its illegal pricing practices within 15 days. If it refused, the United States would slap on countervailing duties or even ban the exporters' cheeses from entry into the U.S. market. The entire procedure may by law take on longer than 65 days. This is almost 5 months faster than the quickest relief possible under the countervailing duty law, by which subsidized dairy imports have been regulated in the past, and by which other commodities will continue to be regulated in the future.

This simple and readily-provable injury standard, together with the overall price-undercutting enforcement mechanism, of which it is a part, represent important protections for the dairy farmer which were not contained in the administration's original legislative proposal.

In addition, the administration agreed to include language in the implementing legislation which guarantees that, for the next 3 years, the Government may not expand cheese import quotas without prior public hearings, except in "extraordinary" circumstances. This provision (section 701(b)) insures that dairy farmers and their industry representatives will have a full opportunity to present their case before the administration makes any changes in cheese quotas.

Even given these substantial improvements in the implementing legislation, I am simply not confident enough that the changes made in the countervailing duty law, the sanctioning of foreign subsidies on their cheese exports, and the expansion of cheese import quotas will not have damaging effects on U.S. dairy farmers.

The findings of agricultural economists and other experts who have conducted extensive studies on the projected effects of the trade agreement on returns to U.S. dairymen are in serious disagreement. A study commissioned by the Senate Finance Committee, for example, predicts rather little impact on milk prices as a result of the trade agreement, about a 6.4-cent per hundredweight reduction in price in 1980, declining to no difference in 1986.

Another study, however, conducted by a well-respected agricultural economist at the University of Wisconsin, foresees a much more damaging impact on dairy farmers as a result of the trade agreements. Based on a recent Department of Agriculture report, this study predicts that the trade pact could mean a drop in milk prices of 13-cents per hundredweight or more.

The fact is, there is no reliable way to gage the future impact of the trade agreement on U.S. dairy farmers.

Our Nation's dairy farmers have been in a boom and bust cycle, a roller coaster economy, for the past few decades. The result has been chaos, with thousands of dairy farmers being forced out of business. The most recent statistics show that the Nation lost over 8,000 dairy farms from 1969 to 1974. Many of the remainder have only survived because they have been willing to forego an income equal even to the minimum wage, not to mention a fair return for their investment. We cannot continue to ask dairy farmers to make that sacrifice in order to provide the rest of us with a cheap and adequate supply of one of our most basic foods.

In order to offer some insurance to the dairy farmer that the chaos of recent years will not occur again, I introduced legislation in January which would maintain the minimum floor for dairy price supports at 80 percent of parity, with mandated semiannual adjustment by the Secretary of Agriculture, through September 30, 1981.

An extension of the 80 percent of parity price support level is absolutely essential to protect the dairy farmer against the potential harm caused by the trade pact.

Everyone recognizes that the sacrifice by the dairy industry was a vital part of the trade agreement in general and the commodities agreement in particular. Comparatively, every other agricultural commodity did very well indeed. Therefore, there is a compelling obligation on the part of the Congress and the country to assure that the dairy industry is not seriously damaged by the importation of dairy products subsidized by the general treasury of foreign governments. Our dairy farmers can beat the competition of European dairy farmers, but they cannot beat both the farmer and his government combined.

Both Trade Ambassador Strauss and Agriculture Secretary Bergland have endorsed an extension of 80 percent of parity but Congress has not yet acted. Therefore, I withhold my endorsement of this agreement until Congress extends the 80-percent support level.●

● Mr. GLENN. Mr. President, I rise in support of H.R. 4537, the Trade Agreements Act of 1979. I think it is especially appropriate on this occasion to review the historical significance of America's role in international trade and to survey the range of foreign trade challenges that demand our immediate attention.

Since World War II the United States has led the world in the expansion of international trade. By way of the Truman doctrine and the Marshall plan we aided the development and redevelopment of industiral economies throughout the free world. Through these polices we built a system of global economic cooperation that provides nations with fuel for their factories and markets for their goods.

The success of these economic missionary efforts is inspiring. For the last three decades the international economy has enjoyed unprecedented growth and prosperity. With our assistance the economies of Germany and Japan have risen from the ashes of war to positions of leadership in industrial production. South Korea, Taiwan, Mexico, and Brazil continue to make impressive strides on the road to economic development. The United States led the development of the free world market and is today the free world's best customer. We find proof of this in world trade figures compiled since the OPEC oil embargo and price escalation.

Since 1974, U.S. imports have grown 13½ percent per year.

Our trade with West Germany went from a virtual balance in 1976 to a $1.4 billion deficit in 1977 and $3 billion in 1978.

Our deficit with Canada grew from $2.7 billion in 1976 to $4 billion in 1977, and $5.2 billion in 1978.

Our deficit with Japan grew from $2.8 billion in 1976, to $8.4 billion in 1977, and $11.6 billion in 1978.—Figures from the Department of Commerce, Office of International Economic Research.

In short, America's strength as a customer of foreign industries has provided energy-hungry nations with the foreign exchange they need to purchase their fuel supplies and finance their industrial modernization programs. Our trading partners' confidence in the U.S. economy is underscored by the fact that in the last 3 years foreign investment in the United States has increased 66 percent.

Unfortunately, the economies of Canada, Japan, Brazil, Mexico, and India have all grown slowly since the OPEC oil crisis. These are all important traditional markets for U.S. goods. The slow growth of these markets has slowed growth of U.S. exports. Since 1974, U.S. exports have grown only 7 percent per year.

However, the slow growth of traditional markets for U.S. goods explains only part of our poor export performance in recent years. Since 1974, the United States has failed to expand its exports in faster growing markets at the same pace its competitors have. This fact highlights the historical irony of the foreign trade challenge confronting us today.

We changed the world with our response to the post-World War II economic challenge. The very success of that response, the development of competitive industrial economies throughout the world, has fostered a new challenge for us—the challenge of economic competition from abroad. The resources of this challenge are the very same as those described by J. J. Servan Schrieber, 10 years ago, in his book "the American Challenge." The foreign trade challenge confronting us today is based on careful planning and financing of commercial activities and the mobilization of research and development in industries with strong export potential.

In Asia and Europe, governments have targeted specific industries to receive the benefits of favorable investment climates and financial assistance.

In Japan, the steel, shipbuilding and computer industries have benefited from carefully planned investment and export promotion strategies. Taiwan, Hong Kong and Korea have followed this pattern in the development of their textile footwear industries. Similarly, research and development in Europe and Japan has been directly toward products with export possibilities. European governments have worked cooperatively to increase their share of the international commercial aircraft market. Similarly, the Japanese Government has coordinated research in semiconductor technology to gain access to that export market.

Most other countries also provide some form of official financing, through both tax and nontax incentives, for export activities. Whereas the United States spends only 1-100th of 1 percent of the Federal budget on export promotion, other countries average about six times that amount. Where stringent U.S. antitrust laws hamper cooperation among American firms, Japanese and European trading companies combine their resources for comparative advantages in project bids and freight rates.

The scope and nature of this global foreign trade challenge call for immediate response. The interdependence and competitiveness of the world market make it impossible for the United States to sustain its economic growth with policies based on out-dated notions of resource self-sufficiency and directed toward limited domestic markets. We can no longer afford to sit idly by while our trade deficits mount. We must direct our attention to the foreign trade challenge that confronts us.

This challenge calls for a substantive reorganization of trade responsibilities in the U.S. Government. The United States alone among the major trading countries has no single Government agency with authority and responsibility to advance its trading interests. Our current trade apparatus needlessly duplicates some trade functions, inadequately serves others and is in conflict with itself about whether or not to perform still others. We have too many people in our Government trade agencies running in too many different directions. We must streamline and strengthen our trade programs. U.S. business cannot remain competitive unless we increase U.S. Government effectiveness in dealing with trade matters.

Just as we must restructure our Government trade apparatus so must we expand U.S. export financing. In world markets for capital goods—and as recent trade agreements between China and other foreign countries demonstrate—contracts most often go to the exporter who is able to arrange the most attractive financing. Intense international competition and increasing similarity in the price, quality and availability of goods make financing arrangements a critical factor in foreign trade. We must expand the scope and freedom of export financing and we must provide more attractive terms and programs.

The expansion of these programs—Export-Import Bank and the Commodity Credit Corporation—is important to our domestic economy as well as to world commerce. With every additional 1 billion dollars in exports financed by such programs, 40,000 domestic jobs are created, $2 billion is added to our GNP and $400 million in additional Federal tax revenue is collected—Senate Banking Committee Export Policy Report.

We must free the adventurous spirit of private enterprise from the yoke of tax laws and Federal regulations that currently hamper our international competitiveness. We all realize that we need to monitor the foreign-source income of American firms, preserve our environment, and protect the health and safety of our workers. Our growing trade deficit dictates that we accomplish these objectives at the lowest possible cost to our economy.

This requires a thorough-going review of current regulatory standards and procedures:

A Washington—St. Louis, Mo.—University study of Federal regulatory activity concluded that the cost of Federal regulations to our economy is in excess of $100 billion a year.

It costs the Federal Government nearly $5 billion per year to carry out its regulatory activities.

In addition to unleashing the forces of productivity, we must nourish their growth. We must expand opportunities for capital formation and enhance incentives for industrial research and development so that our industries can invest in the modernization of their facilities.

Such investments in industrial productivity are lagging.

The proportion of gross national product invested in R. & D. has declined steadily in the United States for the past 10 years. During that period, Germany has increased its R. & D. expenditures 40 percent, and Japan has increased its R. & D. expenditures 74 percent.

U.S. investment in R. & D. as a percent of GNP has fallen from 3.0 percent in 1964 to 2.3 percent in 1978.

During the same time period investment in R. & D. in Japan increased from 1.5 percent to 2.0 percent; in Germany it increased from 1.5 percent to 2.3 percent—NSF.

These trends are important for several reasons. Whereas 51 percent of U.S. R. & D. investment is defense related, only 2 percent of Japan's R. & D. investment and 12 percent of West Germany's R. & D. investment are defense related. The United States spends a smaller share of its R. & D. investment on commercially oriented R. & D. than Japan and Germany do. This is significant because these and other countries have emerged as major alternative sources of industrial innovation in recent years. Increasing competition from developing nations in the areas of consumer goods and moderate technology products will push these nations into greater concentration on higher technology products—directly challenging the mainstay of U.S. exports.

Moreover, R. & D. investment has a special impact on U.S. productivity and competitiveness in the world market. During the time that U.S. investment in R. & D. has declined, U.S. productivity growth has fallen behind that of other nations, our market share has declined and the U.S. dollar has depreciated. Increased investment in R. & D. is a must if we are to reestablish our competitive position in foreign trade.

Just as we must nourish the forces of productivity so must we promote export activities across a broader range of U.S. firms. At present exports account for only 6½ of U.S. GNP. Approximately one-half of U.S. exports of manufactured goods are made by only 100 companies; 80 percent are made by only 250 companies; small and medium sized firms account for only 15 percent of our exports.

We cannot become competitive in foreign trade when thousands of our medium-sized and smaller firms are prevented from exporting by high start-up costs—foreign market surveys, changes in product design and packaging, provision of after sales servicing, travel expenses—and ignorance regarding the requirements and rewards of foreign mar-

kets. The Commerce Department estimates an additional 20,000 to 30,000 small companies could export successfully.

We must redirect our export promotion programs to these potential exporters in greatest need of assistance. At my suggestion, businessmen in my home State of Ohio are currently exploring the trading company concept as a means of increasing export sales. Although the concept of an Ohio Trade Co. is far from realization, its potential is considerable. It would allow medium-sized and small firms to pool products, management expertise, and economic strengths. The benefits of such an arrangement include: Increasing opportunities for finding markets, reducing the costs of sales, increasing access to credit, and spreading the risks of exporting over the member companies. The trading company concept is an example of an area where business and Government must cooperate if we are to respond successfully to the challenge of foreign trade.

We know the nature and source of this challenge. And we know that just as challenges are occasions for critical self-evaluation, so are they opportunities for creative action. We have faced challenges before and we have reshaped the world by our responses to them.

We cannot predict what future challenges will arise in international trade. Nor can we develop an international trade system that is free of potential conflicts and crises. The world is too complex and the interrelations of its economic and political sectors are too subtle. Yet, by launching the kind of mission I have outlined we can stimulate productivity at home and commerce abroad. To turn away from this challenge is to accept the finite limitations of our own natural resources and to silence the expression of our infinite American resourcefulness.●

● Mr. BIDEN. Mr. President, over the last 5 years, particularly these last few months, we have all heard and read a great deal about the multilateral trade negotiations which were conceived at the ministerial conference in Tokyo in 1973. In the aftermath of the OPEC quadrupling of oil prices, the world economies faced many of the same problems that we continue to face today—energy shortages, sluggish and erratic growth, inflation, and unemployment.

These recently concluded negotiations among 99 countries will not solve these problems overnight. However, they do represent a noteworthy attempt to deal with the very root of these economic problems—protectionism. To counter tariffs, the traditional method for providing protection to an economy, negotiations have been completed which would result in average global tariff reductions of 33 percent, with only 30 percent for the United States. To counter alternative methods of protection, such as product standards, licensing, and customs valuation, the Tokyo round has successfully negotiated five "Codes of Conduct" which provide for the first time, a discipline on the use of nontariff barriers. These nontariff barriers code can be seen as the greatest achievement of this round of negotiations. By providing "rules of the road" for the barriers which have been used increasingly by governments either to compensate for the loss of protection from foreign competition, these codes attempt to control some of the most detrimental barriers to trade—and thus barriers to economic growth.

Protectionism hinders the efficient allocation of often scarce global resources. Our experience from the "beggar thy neighbor" protectionist trade policies in the 1930's, and the oil shortages in the 1970's, has taught us that protectionism is in none of our interests. By raising the prices of available goods it hardly serves the needs of the consumer, and while beefing up a specific industry, it does not serve the American economy as a whole.

Most economists inform us that if Congress passes the implementing legislation, the results will be beneficial to the United States and the world economy in the long run. By shifting available resources into areas where a country enjoys a "comparative advantage"—in the case of the United States, high technology products—our economies will realize greater efficiency and productivity. The resulting increase in income and employment will act as an "engine of growth" in an expanding world economy.

When we consider the effects of the multilateral trade negotiations (MTN) in the short run, the benefits will most immediately effect the consumer. Reduced barriers to trade, both tariff and non-tariff, should increase the availability of goods and enhance price stability. Unfortunately, many sectors of the American economy have been conditioned into thinking that more foreign goods means higher prices. This, however, is simply not the case. The freer flow of goods and services as a result of these reduced barriers will tend to lower the price of imported goods and in turn encourage domestic and foreign producers to control their prices in order to be competitive. The consumer could expect to have a greater selection of goods such as watches, cheese and electronic products at reasonable prices.

Statistics show that the American consumer will, in fact, save as a result of the MTN. A report from the Office of the Special Trade Representative, found that estimated consumer benefits from the fully implemented tariff reductions alone would reach $10 billion annually. In simpler terms, Ambassador Robert Strauss estimated that savings to the average consumer, in both taxes and lower prices for goods purchased, will be $695 per year as a result of the Tokyo round negotiations.

Other short-term effects include export expansion. Estimates of the additional American exports as a result of tariff reductions alone, might be as little as $2.7 billion but could be as high as $4.5 billion. Of these exports a sizable percentage (41 percent) would go to Europe, Canada (26 percent), and Japan (14 percent). The American economy would significantly increase their exports in aircraft, automobile parts, computers and chemicals—to name a few.

With regard to the nontariff barrier Codes of Conduct, the Government Procurement Code would open up an estimated $25 billion in annual sales of goods and services to foreign governments, which previously had been closed to the United States. Other codes to counter such nontariff barriers as product standards, complicated requirements for licensing, and varying criteria for assessing the value of imported goods—would promote the free flow and fair trade of American goods.

At a first glance, the effect of the MTN on industry in the short run may not appear as beneficial. It is often said that with the lifting of protective trade barriers, it is the producer who pays and the consumer who gains. By changing the structure of the economy, the United States and other countries face the prospect of job displacement and in some industries increased unemployment. However, this is only at a quick glance. What we really need to do is to take a closer look to see if the jobs were lost as a result of Government trade concessions or whether the loss is, in fact, due to the inefficiency of an industry whose collapse has simply been delayed by the protective barriers we have previously erected. It is only in this way that we can single out and judge the effects of the MTN on the structure of the industrial sector of our economy.

It is unfortunate that any part of our society must bear the burden of the negative, short-term effects of the MTN. To this end, the Trade Adjustment Assistance Act, of which I am a cosponsor, would provide compensation to individuals who are displaced or dismissed due to the impact of imported goods.

It is important to note that the actual job loss will be minimal. In addition, the structural change brought about by the MTN, would result in the creation of new jobs in the areas of high technology—where we maintain a comparative advantage. I expect, therefore, the overall result will be less a case of "genuine unemployment" than a temporary job displacement: Fewer jobs in industries propped up by trade barriers but ultimately the creation of more jobs in more efficient areas.

The aggregate effects of the Tokyo round of the MTN on our economy will be beneficial. Although there were will be a short period of adjustment, current studies strongly suggest that in the long run, the MTN will have a salutatory effect on the United States and world economy. I think it is important for us to remember that we are not a country neatly divided into two groups—with the consumer on one side and industry on the other. Consumers are also involved in production, as is industry involved in consumption of goods and services. As a result, in the short term, the benefits to the consumer are not necessarily distinct from those realized by industry. In the long term, that which benefits the consumer should ultimately benefit the producer.

Mr. President, it is true that we did not get everything we wanted in Geneva. This, however, is the nature of negotia-

tions—"You have to give in order to take"—I do feel that in the overall, there was a net gain to all the 99 participating countries.

I believe that the United States will benefit in both a domestic and in an international context. Domestically, the benefits would include lower prices, a greater availability of certain goods, and a stable and more efficient economy. Internationally, in a broader sense, these negotiations represent a global awareness of the importance of cooperation in the context of common trade problems and mutual interests.

In addition, certain trading issues, including the use of import quotas and voluntary export restraints, remain outstanding. These issues must be dealt with in the future by the international trading community.

Mr. President, countering the growing trend toward protectionism, the Toyko round of the multilateral trade negotiations represents an investment in the future of all Americans. Voting favorably for this trade package will assure the improved economic welfare of both the American people and others in the international community.●

THE MULTILATERAL TRADE AGREEMENTS: AN ACT OF POLITICAL WILL

Mr. BRADLEY. Mr. President, today, the Senate will vote on a package of trade legislation which is the product of more than 4 long years of concerted efforts by the United States and nearly 100 of its trading partners to resist powerful pressures toward economic isolationism. The agreements are imperfect, they bear the imprint of compromise among nations, and among diverse interests within nations; they reflect economic bargains that are not in all respects completely balanced; nor do they, in all cases, adhere to the strictest standards of free trade. Accordingly, critics who wish to find fault with the trade package for doing too much, too little, or too careless a job, in preserving an open system of international trade, can find justification in one or another of the details of the agreements.

While their specific criticisms may be well found, they are wrong if their conclusion is that this massive effort to bring trade under stricter international discipline is a failure. For in every respect, the struggle was uphill, and in every respect, the trade agreements, and the accompanying implementing legislation, represent a hard-earned victory of political will over expedient economic choice and nationalist instinct. The package reflects votes deliberately cast by national leaders in favor of the future, and against capitulation to the political tides of the moment; it reflects votes for international cohesion, and against destabilizing fragmentation. Renewed affirmation of the postwar trend toward economic expansion through increasing interdependence clearly is the larger accomplishment of the Tokyo round.

That interdependence is not per se an antidote to friction among nations is amply illustrated by our postwar experiences with capital controls, import surcharges, export embargoes, currency destabilization, oil price spirals, contagious inflation and recession, and the disintegration of the fixed exchange rate system. But even a cursory examination of economic history drives home the lesson that there is a surplus of benefits to be derived from open borders and the integration of the world economy. We only have to remember the economic collapse and personal misery which the false remedies of protectionism wrought on the world during the years of the Great Depression.

Seeking to spare themselves the devastating effects of economic shock and to shift the pain of recession and unemployment abroad, nations erected higher and higher rounds of tariff walls and succumbed to competitive devaluations whose cumulative effect was not to afford isolated relief but, rather, to exacerbate the economic crisis, and ultimately, to destabilize political institutions. In contrast, postwar progress toward a multilateral system of open borders, despite periodic traumas, spurred the world economy first, toward massive recovery, and then toward higher and higher levels of growth, welfare, and political stability. The lessons of the past are clear and compelling: Open borders and interdependence cannot guarantee peace and prosperity, but they offer the best opportunity for modernization and progress that we have found.

Still, despite the dramatic lessons of history, as well as the lessons of economic theory, internal disorders every day tempt governments to provide quick palliatives at the expense of long-term welfare. Persistent problems of unemployment, slow growth, failing trade balances, and industrial dissipation tempt governments to offer preferences to products made at home, limit the access of foreign goods to domestic markets, and provide uncommercial incentives for national products to penetrate foreign markets. Protectionism is an easy answer, an answer within close reach. It requires an act of will by collective leadership to resist the strong and immediate pressures for a simple solution.

And it was by an act of political will that signatories to the trade treaties agreed to deny themselves full access to their national instruments of economic policy. A toolshed of tariff and nontariff barriers to trade have been laid aside in the effort to establish fair rules of international commerce.

The decision to accept international discipline in the realm of trade is significant beyond its economic effect. It offers evidence that modern leaders can rise above parochial perspectives and join to build institutions for the good of world society. The expression of will in the economic realm bodes well for future achievements in the political and the military realms. It fosters faith in the quality and depth of international commitments to cooperation.

Although the importance of preserving a liberal world trade structure is reason enough to be well disposed toward the agreements, fortunately, it is not the only reason. The specific accomplishments are far reaching. They promise to overcome stubborn obstacles to trade and increase world welfare. Tariffs will fall by an average of 33 percent and this should facilitate the flow of goods and services. But what truly distinguishes this seventh trade round since World War II is the success of the negotiators in eliciting commitments by governments to restrain their use of nontariff mechanisms to influence the course of trade. As tariff-cutting agreements eroded the utility of tariff instruments, nations accelerated their use of nontariff restrictions. Bouts with recession and unemployment in this decade increased incentives to resort to these nontariff measures.

As a result of the recent trade negotiations, codes will govern a broad range of government policies and practices that currently are employed to shift trade balances in the user's favor, policies and practices such as subsidizing exports, giving undue procurement preference to national products, imposing product performance standards that cannot be justified by legitimate domestic objectives, implementing licensing procedures that discourage imports, and employing unfair methods of customs valuation. One code will govern the practice by private and public enterprises of dumping abroad surplus product at less than its fair value. The codes provide for recourse to an international dispute settlement mechanism, and U.S. implementing legislation, if approved, will assure our own remedy under domestic initiative, should international efforts fail.

Thus the agreements and the accompanying U.S. legislation are designed to make international trade both more free and more fair. They go to great lengths to create a bias in favor of open borders, while retaining for each nation the right to modify its own compliance in response to violations by others. The structure established is a good one; the actual benefits to be derived depend on our own resolve and restraint.

Past experience instructs us in the possible benefits to be had. For example, today Americans receive direct savings of an estimated $2 billion yearly resulting from the availability of consumer imports, excluding automobiles and foods. Trade fights inflation, currently a chronic national problem, by increasing supply and encouraging domestic producers to keep their prices competitive. Though actual savings brought about by the MTN agreements will depend on market behavior, there are projections that by the time the new tariff cuts have been fully phased in, Americans will have saved $4 to $6 billion yearly because of imports. Alone this could produce a drop in inflation of 0.2 to 0.3 percentage points. Indirect effects, such as reducing pressure for wage increases, when added to the impact of nontariff barrier reductions, could make the drop much steeper.

Over the years, the United States has become more dependent on international trade. Today we export over 16 percent of our gross national product, compared

to less than 5 percent when the GATT was founded in 1947. Approximately 4.3 million American jobs rely on exports, and in 10 years American exports have more than quadrupled, reaching $143 billion in 1978. The fact that even this rate of expansion leaves us with trade deficits on the order of $30 billion a year is just proof of the need to provide greater stimulus to exports. For too long, our Government has neglected market opportunities abroad and permitted foreign competitors in Europe and Japan to enjoy special advantages in capturing these opportunities.

On July 21, 1979, the Senate approved a new Export Administration Act, the provisions of which create an assumption in favor of American exports and go some way toward relieving American industry of the export-chilling delays and paperwork burdens that are not truly necessary to protect our national security or uphold our foreign policy interests. In another excellent effort to improve our trade standing the Senators from Connecticut and from Delaware, as well as the distinguished majority leader, the Senator from West Virginia, have introduced proposals for the comprehensive reorganization of our trade functions, proposals aimed at improving our export performance and rationalizing our trade policies. Several other distinguished colleagues have offered their own designs for trade reorganization, and the administration has submitted its plan for an enhanced STR office.

All of these deserve our thoughtful and careful attention in the coming months, for while there must be lively debate about the best reorganization formulas, there should be no doubt that some realinement is needed. Our ability to take full advantage of the trade understandings recently reached will be impaired unless we take this opportunity to cohere trade programs in a strong, central trade institution, one prepared to advance U.S. interests abroad and to provide for the fair administration of our trade laws at home.

As a Senator from New Jersey, I note with satisfaction that early warnings that trade liberalization would have an adverse impact on the Northeast region were exaggerated. These predictions did not take into account the careful treatment that our trade negotiators gave to import sensitive sectors, sectors which are heavily concentrated in the region. As it turns out, at the same time that injury to industries such as textiles, steel, and shoes will be mitigated by the small size of tariff reductions and by special agreements, high technology industries, such as the computer, electrical equipment and instruments, industries, which are also heavily concentrated in the Northeast region and enjoy a strong advantage in the world markets, will be given an additional boost by trade liberalization. Last year, these last three industries alone yielded $9 billion in exports from the region.

Exporting continues to be important to the region's growth. Currently over 7 percent of the Northeast's manufactured products are exported. One in fifteen Northeast workers produce manufactured items for export. Further, including indirect exports and "invisible" exports, such as finance, insurance, shipping, and other services in the calculation would significantly raise the dollar volume of exports and the number of workers employed as a result. While exports from the Northeast have lagged behind the United States as a whole, the region continues to be an important export source. Also, six of these States enjoyed a growth in manufactured exports higher than the national average.

The area is fortunate enough to include many fine ports, including the great Port of New York—New Jersey in my own State. The value of this port's total foreign trade reached record levels in 1978, rising by 25 percent from 1977 to a high of $58.6. billion. Liberalized trade should spur further growth and inject new vitality to the port area. State, local, and Federal Government will all need to join forces to fully explore and exploit new opportunities.

I would like to take this opportunity to congratulate, and convey my special thanks to Special Trade Representative Robert Strauss and his superb staff for their tireless work in ushering a very complex and controversial set of agreements through international negotiations, and for consulting with the Senate Finance Committee in a frank open manner in the course of formulating sound legislation to implement these agreements.

I also would like to say that it has been a privilege to work with my distinguished colleagues on the Trade Subcommittee. Under the wise leadership of the Senator from Connecticut and the Senator from Delaware, the members sought to assure that the legislation we helped to develop will implement the agreement in a way that best serves American interests in free trade and in the fair treatment of its domestic producers. Subcommittee members, particularly the chairman and the senior minority members, have given unselfishly of their time, energies, and patience, and the unanimity with which the bill has been reported reflects their zeal and commitment to the welfare of the American people. Bearing in mind all the risks associated with, as well as the inevitable imperfections in, the agreement, I know my colleagues will join to receive these agreements with the resounding welcome they well deserve.

Mr. HOLLINGS. Mr. President, while I intend to vote in favor of the implementing legislation for the Multilateral Trade Negotiation Treaty, I want to take a few moments to explain my conviction that the larger dimensions of our trade problems are not going to be solved—indeed have not even been addressed—in this agreement. The treaty we are voting on can, vigorously implemented and enforced, improve the climate of trade. But it would be dangerous folly to assume that it will correct our more fundamental trade problems. It does not. What we will need just as sorely after this treaty is approved is what we need right now—a realistic trade policy for the United States of America.

Since the Second World War, we have been through half a dozen of these international trade conclaves. Each time we have liberalized the terms of trade, each time we have convinced ourselves that a better trade world has been achieved. Yet hard as I search, I cannot find any evidence that our American trade picture today is better than it was 35 years ago; and I can find a lot of evidence showing it to be many times worse than it was. All the red ink in our balances of trade and payments proves that.

I vote in favor of this legislation in hopes that it will accomplish the limited goal of reducing some of the irritants which poison the trade atmosphere. I do so under no illusion that the treaty or the implementing legislation will accomplish anything fundamental to rectify the serious trade problems which so endanger the national economy. The various technical codes covering subsidies, standards, customs valuation, licensing, commercial counterfeiting, and so on can make a difference, but certainly they portend no bright new trade picture for the United States.

I emphasize also that even these more modest goals will not be achieved without vigorous and determined followthrough. Our trading partners are nothing if not innovative, and as we move to close one loophole, they are fully capable of divising others not covered in the agreements.

When we stop to look at the implementing machinery set up to enforce the MTN Treaty, we see a lot of new committees and panels, as if adding bureaucracy on top of bureaucracy was going to solve our problems. Who composes these panels, what procedures they will use—many of the most vital questions are left to the future for answers. I would also note that even if these committees are fortunate enough to get so far as to recommend action against an offending country, they are not likely to get to the point of effective retaliation. Only once in the history of the GATT has the membership sanctioned retaliation. The feeling more usually is that going that far is a little bit nasty, somehow ungentlemanly, and potentially injurious to the independence of the countries involved, so the upshot is that effective retaliation is very, very rare. With action so infrequent, the old system of dispute settlement seems open to question. Now to pile new committee on top of old committee seems hardly the most effective way to proceed.

I could go into other ambiguities and uncertainties in the language of the codes, but I will refrain from that for now. Suffice it to say that there are too many instances where the language used is open to varying interpretations, and if those interpretations are not done any more effectively than they have been done in the past, then I would not look for any substantial diminution of trade discrimination practices against the trade of the United States.

The fact of the matter is that today,

in the summer of 1979, there are many more types of discriminatory trade practices and subsidies, and loopholes than there were when GATT was first adopted. Enforcement, as pointed out, remains a question mark, at best. And our trade imbalances and prospects get bleaker with almost each passing day. So in light of the safe conclusion that not all old problems have been solved and the equally safe prediction that new loopholes and problems will soon be devised, let us not congratulate ourselves excessively on what we are about to approve. We are in reality doing little more than tinkering, and in so saying I am not denigrating the hard work that went into the negotiating and writing of this treaty. The fact that it has been so difficult to achieve even this modest an agreement is less a measure of the substance of what we are accomplishing than it is evidence of the tenacity of other trading nations when their economic interests are in any way threatened.

So I hope that neither the administration nor the Congress will judge this exercise to represent an adequate discharging of their responsibilities to alter the American trade picture. I am afraid that too many people in Government take the attitude that the MTN represents the present effort on trade, and that once we have acted on the treaty we have done our duty. So we do a little grandstanding, indulge in some rhetoric, take a vote, and put out a release on what we have done for trade, when in fact we are not doing nearly enough. If we do not follow up to address the larger trade concerns facing us, we will have done a grave disservice to the people of this country. And we will have further indicted Government as the chief perpetrator of America's economic decline.

In point of fact, it is not so much what we do by way of international agreements with other countries that is going to set the course of our economic future—it is what we resolve to do on our own. And it is when we get to this point that I just do not see, in the administration or in the Congress as a body, the realization that something is fundamentally amiss—that we have not developed a policy based on our national self-interest.

All too rarely do I see the understanding that the erosion of U.S. power in the world is a product of our failure to appreciate the close tie-in between political, military, economic, and trade factors. What we do, or fail to do in any of these areas, inevitably affects our standing in the others. We lack a coherent approach for dealing with our problems. In the real world, things are related. In the Washington world, too often, we think we can have policies in one area that are in no way integrated with policies in another. The results have been devastating.

This is the time to tackle the tough questions. This is the time to grasp that our balance-of-payments deficit is not a cyclical, but a structural, problem. Certainly we are no more dependent, in fact not nearly as dependent, as Germany and Japan on imports of petroleum products, yet the mark and the yen continue to appreciate, while the dollar sinks daily lower. Our problems far transcend energy. We have given rise to an economic climate more and more stultified by inflation, stifled by regulatory overkill, crippled by inadequate research and development, hampered by poor productivity increases, and operated in an adversary environment between business and Government.

Look at the history since 1930's on international trade. Back in the early days of Franklin D. Roosevelt's Presidency, Secretary of State Cordell Hull launched his historic trade policy—the Reciprocal Trade Act of 1934. Over the years, this came to be known as Hull's free-trade policy, because it freed up the restrictions and barriers between trading nations. But the concept—and this is the central point—was reciprocity: give and take rather than all give or all take. But after World War II, the policy was given a new twist. With other economies distraught and destroyed, little injury could come from giving a trade advantage to counties trying to rebuild. This was well and fitting at the time, but the approach was abused. And now, long after the need is passed, the State Department continues trying to win friends by encouraging the export of America's technology and productive capacity, with an inevitably adverse effect upon American jobs. Giving a trade advantage became a part of foreign aid. We have been very generous with foreign aid, rebuilding the free world with the Marshall plan and contributing billions around the world. But trade was never intended as foreign aid, despite the efforts of the Federal bureaucracy plus the international banks and multinational giants to push for international welfare under the umbrella of free trade.

It has been said that the State Department has an Asian desk, a European desk, an African desk, a Latin-American desk—but there is no American desk to represent strongly the interests of the United States. When the Europeans and Japanese and others sit down to negotiate on trade, their governments back them to the hilt. More often than not, American business generally finds itself in an adversary relationship with the State Department. This has caused tremendous damage to many of our most basic industries. Here is the basic reason why Congress created the Office of the Special Trade Representative, and let me say that Ambassador Strauss has done yeoman work in trying to improve the relationship between Government and industry. And his achievement has been considerable. But the problem is basically structural and institutional; it goes beyond the ability of one man to change forever; and as Ambassador Strauss moves from the STR to the Middle East, it is an open question how long the new environment can last even in the STR's office.

One thing is certain—when we continue year in, year out on the binge of exporting our jobs and dollars and technology, the national interest is not being served. That is not free trade. It is not even trade. It is a giveaway. It has nothing to do with the theory of competitive advantage. You will recall the old free trade theory that our unskilled and semiskilled industries could be sacrificed, and instead we could focus here at home on what we do best—which was characterized as capital-intensive production. Meanwhile, the less-developed world would concentrate on what it does best—labor-intensive work. The way it turned out was that we exported it all, including our capital-intensive knowledge and skills as well as the jobs, putting ourselves ever farther behind other, more aggressive trading countries.

It has always been my conviction that no one else in the world is going to look after America's well-being. It is our job to do. And late in the day though it is, we still have the chance. Others are surely doing it. Europe and Japan are spurring exports and motivating exporters in every conceivable way. They have legislation on the books to encourage trade and to build business, while our stress continues to be on building domestic consumption, with little more than rhetorical attention given to building foreign markets.

To compete, our trading industries must have the same kind of encouragement that their counterparts in other countries enjoy. Exporters elsewhere are given just enormous motivation to export rather than simply sell to the domestic market. They enjoy remission of value-added taxes; special reserves for any losses incurred; a choice of whether to be taxed on a worldwide or consolidated basis; joint export programs; and more liberal write-offs for research, development, and depreciation. I am surely not saying that we need to approve each and every one of these things, but certainly if we do not do something along these lines to encourage our foreign trade, then we are going to be left with a permanent balance-of-payments, and balance-of-trade deficit—energy crisis or no energy crisis. That translates, as I tried to point out earlier, into not only economic decline, but also into political, diplomatic, and military decline.

We must also begin insisting upon fair trade. I know it is fashionable in some so-called sophisticated circles to equate the call for fair trade with the plea for protectionism. But fair is fair. We must demand, and expect, no less. We must be willing to retaliate where there is no fairness. We must not shrink from demanding from others the same kind of opportunities our negotiators are so quick to grant in your name and mine.

Trade policy must never be divorced from considerations of the national interest. A trade policy predicated on enhancing the well-being of the United States in no way portends a return to the shortsighted protectionism of Hawley-Smoot in 1930. But it does mean reciprocity; it does mean playing for keeps just like everyone else does; and it does involve reversing the disastrous policies of the last 35 years. In an equitable trade environment, we can reduce barriers, and trade can flow. American companies and the American people have a fundamental stake in international trade, and in the creation and enforcement of a fair trade environment.

I see in trade just what I see in arms limitation. Our trade policy has been

as blind as our national security policy. In both we see lack of realism. In both we see an American view of the world couched in the most idealistic of terms, whereas those with whom we negotiate see more clearly the facts of international life. In both we see the same failure to address the fundamentals, the same timid negotiating posture. In both we are told the process itself is of such value that we must keep it going, no matter if the terms are not really what we need and want. In both we see the shrinking back from using the leverage we have to extract the kind of concessions we need. I believe that the rest of the world would look far more kindly, and certainly more respectfully, on the United States if they thought that our American policies were somehow geared to an enlightened conception of national self-interest. After all, everybody else works from that starting point. Why should not we?

Mr. President, I did not intend to go on at quite such length, but this is a matter about which I feel very deeply. I cannot just stand by and watch this treaty and this debate billed as the trade highlight of our time, while in fact the basic questions go ignored. Unless we reverse these trends, unless we begin acting so as to benefit this country of ours, our status is going to rapidly slip from great power to permanent debtor. And that would be a sad ending for a country whose enterprise and innovation and productivity once eclipsed all that had gone before. It does not have to end that way. But if it is going to be otherwise, we need some policy, some realism, some leadership to rebuild and to get moving again.

Mr. COHEN. Mr. President, I support the legislation which will implement the agreements reached in Geneva as a result of the multilateral trade negotiations.

I recognize the potential benefits to this country from these agreements. The tariff reductions and, more importantly, the nontariff barrier improvements are a significant step forward in our Nation's trade policy. Many of the industries in my State are encouraged that these agreements represent a tremendous advance in procedures for countervailiing duty and antidumping cases. The new procedures should provide a more satisfactory resolution to the trade problems facing Maine's shoe and fishing industries. These industries are hopeful that these agreements, together with some reorganization of trade functions within the executive branch, will enable them to compete more fairly with our trading partners, such as the European Economic Community.

I do, however, have some reservations on how the agreements may affect certain industries in my State that are vulnerable to imports. I appreciate the efforts of Ambassador Strauss in trying to protect sensitive industries such as textiles and footwear from severe damage from imports, such as those from countries with low labor costs. Nevertheless, over the 8 to 10 years during which the agreements will be passed into effect, some jobs in New England may be placed in jeopardy. The number of lost jobs is very few; however, this estimate only takes account of the tariff reductions. The employment and other benefits from nontariff barriers are not quantifiable and are expected to be significant.

I am also aware of the Maine industries which may have new opportunities for increased exports. These include paper, agriculture, industrial, and metalworking machinery, fabricated steel, lumber, and plywood.

I intend to carefully monitor how these agreements are implemented. I want to assure the administration that I will certainly pay close attention to any action taken during the implementation process that could be detrimental to my State, and I expect that the administration will make every effort to insure that the effects on Maine's sensitive industries will be minimized. I am confident, however, that the benefits to the country as a whole will demonstrate the importance of these trade agreements and that they will open up new markets for many Maine industries.

Mr. JAVITS. Mr. President, I had not been on the floor when H.R. 4537 was debated. I want to state to my colleagues that I wish I had been able to be here. I think this was one of the most admirable undertakings and one of the most admirable consumptions in all of our trade history by Bob Strauss, the President's negotiator, and a magnificent job by the leaders in the House who dealt with this matter and by Senator RIBICOFF and Senator ROTH.

Mr. THURMOND. Mr. President, I rise in support of H.R. 4537, The Trade Agreements Act of 1979. This legislation will implement the product of 5½ years of multilateral trade negotiations (MTN) initiated in 1973 among the world's major non-Communist economic powers. The agreement was approved by 99 nations in Geneva last April 12.

The Tokyo round of the MTN, the seventh since World War II, has produced the most comprehensive agreement since establishment of the International General Agreement on Tariffs and Trade in 1947. For the first time agreements have been concluded which deal with a broad range of so-called nontariff obstacles to trade. These nontariff agreements address trade problems inherent in government procurement, the use of subsidies and countervailing duties, "dumping" of goods in foreign markets, customs valuation, the setting of standards for imports, and the issuance of import licenses.

Mr. President, this legislation will have a favorable effect on our balance-of-trade deficit, our inflation rate, and the strength of our dollar. I believe that this legislation implementing these agreements is within the best interest of the Nation, and I urge my colleagues to join me in supporting it.

THE TRADE AGREEMENTS ACT: PASSAGE OF MTN LEGISLATION

● Mr. CHURCH. The President, today, the Senate considers perhaps the most significant piece of legislation in the area of U.S. international economic policy to come before it during this decade. The Trade Agreements Act of 1979 is the culmination of 6 years of protracted negotiations under the auspices of the General Agreement on Tariffs and Trade, GATT. In the so-called Kennedy round, which preceded the recently concluded multilateral trade negotiations, major gains were achieved in reducing the level of tariffs which had been, until then, impediments to the free flow of trade. But, as is often the case, the absence of prohibitive tariffs to shield domestic concerns from foreign competition did not lead to the totally free flow of trade one might have expected, because, in its place, a whole series of subtle, highly complex, nontariff barriers emerged. It was these barriers which were the focus of the MTN. These were the barriers to be eliminated in order to allow for the fullest expansion of world trade.

It is ironic that perhaps the most difficult trade negotiations in which a nation's domestic policies were so closely interwoven with its foreign trade practices took place at a time when the forces for protectionism were at levels reminiscent of those which existed during the decade of the Great Depression. Then, the Hawley-Smoot Tariff Act of 1930, which erected the highest tariff barriers in U.S. history, was the American response to those forces. The tariff war that ensued between nations resulted in a drastic contraction in world commerce. By 1932, world trade was reduced to one-third of its 1929 level. It is refreshing to note that the 1979 response to protectionist pressures has been more productive and enlightened.

In judging the success or failure of the negotiations which have led to the 1979 Trade Agreements Act, I have based my decision on two criteria: The first, will economic gains result from these negotiations, and second, had these negotiations not taken place would additional barriers to trade exist today? In my judgment, the 1979 Trade Agreements Act scores favorably in both these areas. The specific economic gains we can expect from these agreements have been outlined by the administration. As to what might have occurred had the MTN process not been underway, one can only speculate. I would say, however, that the signs were not promising. For the last 2½ years, the United States was in major disagreement with several of its traditional western industrial allies over their international trade practices. The MTN did provide a forum for discussion of these disagreements and for their mutually satisfactory resolution. Not only were the interests of American exporters served by this, but also American foreign policy interests, for I can think of nothing more detrimental to American interests than a major confrontation between the United States and its industrial allies.

The major achievements of the negotiations to my mind, are that tariff reductions have taken place which will result in significant progress in reducing tariff preference, disparities, and high industrial tariffs between the United States and its major trading partners. In the case of Japan, for example, the tariff

cuts which it has agreed to make will actually result in lower average duties being charged on industrial imports there than is the case in the United States. In the case of nontariff barriers, I will not go into detail as to the importance of each one of the six codes which have been negotiated, but I will say that one of the major cornerstones to the success or failure of the entire MTN process will be whether or not the established procedures for the review of grievances is successful in enforcing fair and open trade practices.

The one area of the negotiations which was not as successful from the American point of view was in agriculture. The barriers to trade here are excessively high, and, therefore, any gains made toward liberalization are miniscule in comparison to other sectors. In addition, no where more so than in agriculture are domestic and international policies so intertwined. The European community and Japan will probably continue to subsidize their agricultural sectors. We should not depend solely on the subsidies countervailing duty code to eliminate this practice. While this code does prohibit export subsidies in agriculture, it does so only under the stipulation that such subsidies can be shown to result in the displacement of the exports of other nations which are signatories of the code or will result in prices materially below those of nonsubsidizing suppliers. The one bright spot in the subsidies code is that it provides a specific mechanism for the handling of dispute settlements and a timetable for the resolution of these disputes. It perhaps can be a steppingstone to further gains in this area.

When the Trade Agreements Act is assessed in total, it is, in my opinion, legislation deserving of favorable consideration by the Senate. Ambassador Robert Strauss, the President's Special Trade Representative, deserves special recognition for his crucial role in negotiating trade agreements which I can support and urge my colleagues to support.

Mr. BAYH. Mr. President, today the Senate is considering a very complex and unique piece of legislation that will touch the lives and economic well-being of every American. The bill before us will approve the trade agreements reached in the Tokyo round of the General Agreements on Trade and Tariffs and, at the same time, provide for changes in U.S. law to implement those agreements. The House has already approved this legislation. It now remains for the Senate to act and approve a bill which will reduce some tariffs on goods coming into this country over the next several years with the hope that more American goods will be sold overseas as the result of concessions which Ambassador Robert Strauss and his trade negotiators have achieved. On balance, I believe the agreements reached represent progress in opening trade doors in other countries wider than before and so enhancing the prospects for U.S. exports of agricultural and nonagricultural goods and commodities. In some areas, however, we do not have as much protection against unfair and predatory imports as I would have liked nor is there as great an opening of markets abroad for farm products. Therefore, it is imperative that subsequent to the Senate's approval of H.R. 4537 we make certain that the necessary export promotion efforts are mounted and the requisite vigilence by the Department of the Treasury maintained to make sure that "freer trade" is also "fairer trade." Based on this expectation, I will vote "yea" when the rollcall is taken.

Before I vote, I would like to outline some of my concerns about our past shortcomings on trade policy and indicate how I think the bill before us puts us in a better position to deal with imports sold in this country at less than fair market value. During the last Congress and again in this Congress, I cosponsored legislation to provide for a shortening of timeframes in the investigation of antidumping cases and for a more effective form of deterrence to provide as well for maximum disincentive against predatory pricing by foreign governments. I am also concerned about the matter of illegal rebates being provided to exporters by foreign governments with the express purpose of disrupting a domestic industry in this country. This concern also extends to situations where agreements are made between countries in order to divert exports in such a way to deprive our own businessmen of third country markets. Another issue which has disturbed me are "restraint" of trade situations. I believe that the incorporation of many provisions of the Trade Procedures Reform Act makes the implementing legislation we are considering here today a better bill. These provisions are a major reason why I will support H.R. 4537. I will attempt to summarize them briefly:

Section 101 of the legislation adds a new countervailing and antidumping duties title to the Tariff Act of 1930. Under the new law, countervailing duties would be imposed when the Secretary of the Treasury determines that a country or person is providing a subsidy with respect to a class of kind of merchandise and the United States International Trade Commission (USITC) then determines that an industry in the United States is materially injured, threatened with material injury, or that the establishment of an industry is materially retarded, by reason of such imports. It is important to note as the Finance Committee's report points out that "material injury" would be defined as "harm which is not inconsequential, immaterial or unimportant." In so doing, we have improved the injury test and forced the USITC Commissioners to demonstrate why a negative finding in the event that the petition would not meet these criteria. In the past it has been a matter of wide and varying interpretation as to exactly what injury is and each Secretary of the Treasury or Trade Commissioner has had his or her own interpretation in casting a vote on whether injury or threat of injury could occur. We have now narrowed the focus somewhat and bounded the basis of this finding which I hope will result in greater protection of our home industries against that practice.

The important procedural change of this section is found in the fact that countervailing duty investigation could be self-initiated and, as such, put the Government squarely behind our workers and firms when an unfair trade practice threatens. This has been the rare exception rather than the rule in the past and I do hope the Department of the Treasury will recognize the aggressive role which it should play in the future. The time frames stipulated for the investigations themselves are a marked improvement over the present process. To remove uncertainty for both the importer and the group alleging injury, a 20-day time limit is provided for the administering agency to decide whether evidence is sufficient to warrant an additional investigation. An important added deterrent would be the possibility of countervailing duties being imposed retroactively thus increasing the stakes if a country or person provides rebates in support of imports which result in injury to an American industry.

Section 101 also repeals the existing Antidumping Act of 1921 and replaces it with a new statute similar in terms of the material injury determinations associated with the countervailing duty revision with emphasis on the shortening of timeframes. Perhaps the most important change made in this regard, and one I have been seeking for a long time, would put real bite into this law intended to deter dumping. I refer here to the process whereby if a preliminary determination is made that dumping is occurring, the Treasury Department would at that point require bonds or cash deposits to be posted on allegedly dumped imports in an amount equal to the estimated margin of dumping. Doing this "up front" seems inestimatably more effective than waiting for a final determination which could drag on for months. Deterrence in this case would take place within 7 months rather than 13 under the old statute. This is a significant improvement and one important reason why I am supporting the bill. I also fully expect the Treasury Department to utilize this new authority to self-initiate investigations. All too often, it is the small and medium size businessman who must retain expensive assistance to begin the antidumping petition process. Again, it is time for the Federal Government to get involved and enforce the law vigorously and aggressively to prevent the dumping of color television sets, basic and specialty steel and other products in our country. We must no longer be afraid to enforce our fair trade laws.

Mr. President, other important aspects of this legislation implementing such agreements as the customs valuation and international government procurement code should help us gain access to markets heretofore closed to U.S. firms. On the matter of the procurement code, which has been a particular interest of mine, we are clear that only those signatories to the code will enjoy reciprocal access to our public procurement mar-

kets. Some major entities which seem ripe for foreign exploitation of our open Government procurement market—such as the transportation sector—can be protected. I hope that it will be, because I am tired of seeing the United States become dependent, with the help of Federal dollars, on items such as rail cars, which we hopefully will be building more of in the future.

Mr. President, the trade turnover of the United States is roughly one-quarter of a trillion dollars. That figure exceeds the gross national products of most nations in the world and indicates the paramount role of trade in our own economic well-being. That we should promote the free flow of fair trade in order to derive the benefits of variety and quality goods for our consumers from diverse sources is something I think we can all agree upon. However, as I indicated at the beginning of my discussion, our economic well-being also depends upon effectively deterring unfair trade practices, which in the end will only relinquish the power of pricing to a foreign source. I am accordingly encouraged that the bill before us will deal with this issue as well as many others which have been hammered out. I would be remiss if I did not add a word of appreciation for the extraordinarily able job performed by Ambassador Robert Strauss and his skilled staff in providing us with a trade agreement and legislation which has won such widespread support. If this is a measure of the future success of these agreements then the economy of the Nation and world has been well served.

Mr. LEVIN. Mr. President, trade has become an increasingly important element in our domestic economy and our international relations. The Tokyo round of the multilateral trade negotiations brought a substantially higher degree of fairness and discipline into the international trading system. The agreements support principles promoting the development of an open, nondiscriminatory and fair world economic system. In pursuit of these principles, the agreements sought to remove tariff and nontariff barriers. Significantly, the Tokyo round recognized that trade barriers are generally inefficient means of dealing with balance-of-payment problems and that trade-distorting subsidies are inappropriate trade tools.

The work of Special Representative Robert Strauss should be highly commended. The cooperation between the executive branch, Congress, and the private sector point to the importance of trade to our livelihood and our future. Indeed, the work has only begun.

The new framework implemented by the legislation before us should not be expected to take care of itself. We will need the authority and the means to implement effectively and swiftly protective antidumping measures and material injury tests. The trade agreements will encourage imports to the advantage of consumers and will spur competition. However, we need to continue and improve the trade adjustment assistance for workers and firms experiencing a decrease in sales or production due to increased imports. Adjustment assistance for American workers and firms suffering losses as a result of greater imports is critical. For instance, in the period from April 1975 through February 1979, over $200 million in these payments were made to steelworkers displaced by the increase in steel imports.

While protecting our workers and firms, we need to coordinate our trade efforts to insure an efficient system of overview and enforcement. The principles and agreements reached will be sustained not only with good faith but with the ability to enforce them. In order to enforce obligations with regard to the use of subsidies, the negotiations provide a framework for improved notifications, consultation, and dispute settlement, and where breach of obligation concerning the use of subsidies is found to exist, countermeasures are contemplated. In this connection, the dispute settlement process has been designed to produce results within 150 days. In addition to the availability of such countermeasures countries may take traditional countervailing duty action to offset subsidies upon showing of injury to a domestic industry. The code sets out fair and reasonable criteria for injury determination. In each instance, existing structures should be evaluated to determine the most effective means whereby to enforce the numerous requirements and safeguards of the multilateral trade negotiations.

The MTN negotiations and the implementing legislation might well mark a watershed in the construction of a viable international trade community. Our concern and efforts should not wane at this point, however. For the most part, these agreements are goals and statements of principles which require enforcement and a continued effort on our part to see them sustained and improved.

Mr. LEAHY. Mr. President, I wish to speak in support of S. 1376, the Trade Agreements Act of 1979.

The act, which implements into domestic law the results of the recently concluded multilateral trade negotiations, will be of tremendous benefit to the U.S. economy and to our world trading position.

The trade negotiation process is a very difficult one, and one based on reciprocity. In some areas we were forced to make concessions which were greater than I would have wished. But on balance, I feel our U.S. negotiators are to be commended for the fine job they did negotiating this complex, extremely sensitive package of trade agreements.

Mr. President, today we have the opportunity to approve a package of trade agreements that can help reverse our Nation's faltering trade performance. Last year's trade deficit of some $30 billion put into stark relief a fact which until recently had been ignored and overlooked by national policymakers—namely, the fact that the United States is in the midst of a dire, and seemingly worsening trade crisis.

In plain and simple terms, we are no longer exporting enough to pay for what we import.

Unfortunately, this situation will not be reversed easily, and it will not be reversed in the near future. While our imports continue to expand at a dizzying pace, exports in recent years have grown at a snail's pace if they have grown at all.

Our huge energy import bills can and must be reduced through conservation, and through domestic energy production. But aside from this one, admittedly large area, it will not be possible, nor would it be wise, to substantially reduce our import bills.

The benefits of free and liberal world trade—to Americans, and to people around the globe—cannot be disputed. With the successful conclusion of the Tokyo round of the multilateral trade negotiations, the world appears perched at the brink of a new explosion in world trade opportunities. The benefits will be immeasurable.

As a nation, we cannot afford to squander this great moment by turning inward in an attempt to fight the current tide of trade liberalization.

We face trade problems which are frightening in their magnitude. But we must not seek to restrict imports. We must reach out boldly to the markets of the world. American products have always been and always will be competitive in world markets, given a fighting chance.

We must act now to encourage free and liberal trade, and to aggressively pursue and promote the expansion of American exports.

Mr. President, our precarious trade position in recent years has shaken world and domestic confidence in the U.S. economy. It has fostered the continued decline of the dollar. It has fueled domestic inflation. And it has precipitated the loss of countless U.S. jobs and production opportunities. Today, by approving the trade agreements now before us for consideration, we can take a giant step toward reversing this faltering trade performance.

Mr. President, before I outline what I feel are the most significant positive results of the Geneva negotiations, I must express my serious concerns with the dairy agreements that were reached in Geneva.

Under those agreements, the United States will increase its overall quota levels for imported cheese by about 14 percent. This is no small concession.

In return, we did bring a significantly greater amount of imported cheese under quota. Assuming all quotas are filled, approximately 85 percent of imported cheeses will now be under quota—this compared to the 1978 level of about 50 percent.

I welcome this change, but I must admit to some reservations about our abilities to effectively enforce these quotas. Only the test of time will tell here.

Having expressed my concerns with the potential for increased levels of cheese imports, and for the resulting displacement of domestic milk production, I do wish to point out that those concerns were lessened to a degree by some changes Senator NELSON was able to make in this implementing legislation.

Senator NELSON, through his persistent efforts, was able to win approval for a simple and readily provable injury standard for the dairy industry, and for an expedited price-undercutting enforcement mechanism. I am confident that these changes will enable dairy farmers who are injured by subsidized foreign imports to receive the relief they deserve under the countervailing duty statute.

Mr. President, I must conclude that on balance I am not pleased with the dairy agreements negotiated in Geneva. But I recognize that the dairy industry cannot stand alone in a national community of agricultural commodities. I would hope that, in light of the somewhat less than favorable effect of these agreements on the dairy industry, the rest of the agricultural community will demonstrate a concern and a willingness to help out in other dairy industry related problems.

Mr. President, as I stated earlier, with the exception of the dairy agreements, I am extremely pleased with the results of the Geneva negotiations.

I am particularly pleased by a number of the changes which will be of benefit to the data processing industry. Specifically, I refer to the reductions in the Japanese and European Economic Community tariffs on computer processors, terminals, and components, and to the increased opportunities for U.S. computer firms to bid for foreign government procurement contracts.

The reductions in Japanese and EEC tariff schedules for computer processors, terminals, and components are long overdue. They will bring those tariffs into harmony with the already low U.S. rates on those items.

The favorable changes in the Government procurement code for computers are equally important to the data processing industry.

Presently, U.S. firms are entirely locked out of some 25 to 30 percent of government computer business in the EEC countries, and 15 percent of all Japanese business. A full 98.6 percent of computers used by the Japanese Government are Japanese-made.

This business will now be open to competitive bidding for U.S. firms. Since, in Vermont, it is estimated that 1 job in 7 in the data processing industry is related to international operations, this expanded opportunity will have a dramatic, positive impact on levels of income and employment in my State.

Mr. President, in closing I would like to speak briefly about the substantial opportunities these trade agreements will open up for small businesses.

Through improvements in methods of customs valuations, general tariff reductions, and changes in the Government procurement code, small businesses will be afforded unprecedented opportunities to engage in exporting.

In the past, the bulk of U.S. exports have been generated by the largest and most sophisticated U.S. and foreign based American firms. Export sales have been surrounded by an air of complexity and mystery. They have been obscured by an incomprehensible language of international financial and marketing terms. And they have been burdened by a litany of unnecessarily confusing forms, documents, and licensing requirements.

Exporting need not be this complex. As a nation, we can no longer afford to discourage and neglect the export capacity of the small business sector.

Mr. President, there is a vast and strong demand for the products of U.S. small businesses around the world. Experience has proven this time and time again. Every effort must be made to break down the technical and financial barriers which in the past have prevented small businesses from exploring these world markets. The recently concluded trade negotiations in Geneva have made tremendous progress on both of these fronts.

Mr. President, for all of these reasons I urge my colleagues to demonstrate their commitment to a strong and prosperous America, and to free and expanded world trade by approving the implementing legislation now before the Senate.

Mr. HATCH. Mr. President, I felt it an honor to be with my distinguished colleagues as we consider the monumental agreements arising out of the multilateral trade negotiations. These agreements are of unprecedented, historical significance. That nearly 100 countries of the modern world have bound together after weeks, months, and years of intense negotiation, and have agreed upon a basic document, which satisfies all, is an occurrence unknown previously in the history of mankind. Protectionism has been the guiding philosophy of the modern trading state, and the United States has not been exempt from protectionism. The Tokyo round of the MTN's differs from the preceding five rounds of negotiations in that an attempt has been made to curb the proliferation of nontariff barriers, which have multiplied in recent years. These NTB's have been aggressively scrutinized and, where possible, have been eliminated so that fair trade and free trade can supplant otherwise protection-oriented principles.

Mr. President, Ambassador Strauss has negotiated long and hard and is to be commended for the final product which he has produced. When he first eliminated the small business preference in Government procurement, I expressed grave concern for my Utah manufacturers and subcontractors who would lose future contracts in dealing with the Government. In response to this act, I cosponsored with Senator HEINZ of Pennsylvania, a bill which would restore that preference for our small businessmen. Nearly 1 million small businessmen were behind us. Ambassador Strauss got the message loud and clear. Within 4 days that small business preference was restored. The multilateral agreement was modified as the small business community again showed its collective clout.

I likewise had grave concerns over the current dumping practices of many of the steel-producing nations. Over recent years, as a result of our not enforcing our fair trade laws, we have lost a potential of 5,000 jobs in the Utah steel industry alone. Again, President Carter and Ambassador Strauss got the message. When, along with Senator DANFORTH I cosponsored legislation designed to mandate enforcement of dumping and countervailing duty laws, the administration's response was swift to insure that these measures were embodied in the multilateral trade agreement.

On the positive side, these agreements will be of great benefit to our Nation and my home State. We, in Utah, are proud of our growing export community. Nearly 1 out of 10 manufacturing jobs in Utah are dependent on the export of manufactured goods.

Mr. President, we must take full advantage of the potential benefits of this agreement. We must formulate and implement policies which will encourage our private sector to find profit in exportation. There is no other way we can eliminate our trade deficits. There is no other way we can strengthen our dollar.

I ask unanimous consent to have printed in the RECORD a report prepared by the Office of the Special Representative of Trade Negotiations about the benefits of the trade benefits to my great State of Utah.

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

UTAH—BENEFITS OF THE MTN

Utah's economic base is primarily industrially oriented. In 1976 approximately 67,000 persons were employed in manufacturing industries in Utah, about one-fifth of total employment in the state. Shipments from these industries in 1976 were over $4.5 billion. Steel and aerospace products were by far the largest.

Agricultural sales in 1976 were approximately $3.6 billion. The principal products were cattle and dairy products.

UTAH'S EXPORT INDUSTRIES

Utah's exports of manufactured goods totaled $224 million in 1976, 77 percent above the 1972 level. An estimated 3,700 jobs in Utah were directly related to producing manufactured exports. About 3,200 additional jobs were required to produce materials and parts for incorporation in products exported from other states. Thus about 1 out of every 10 manufacturing jobs in Utah were dependent on exports of manufactured goods.

Utah's share of U.S. agricultural exports totaled $55 million in FY 1977, almost three times the FY 1972 value. In Utah's farm sales, $1 out of every $6 came from exports.

SPECIFIC INDUSTRY RESULTS

The results of the MTN with respect to specific industries of Utah are summarized below.

ELECTRONICS AND COMMUNICATIONS EQUIPMENT

The U.S. obtained important tariff concessions from Japan, our principal competitor in electronics, which in key areas will provide roughly equivalent tariffs in the U.S. and Japan (including equal tariffs on highly competitive semiconductors). In the important communications equipment field the U.S. achieved a balanced outcome by withholding any significant concessions on tariffs or government procurement until other governments are willing to do likewise. The standards code will be a big plus for the electronics sector. In fact, work on this code was begun as a result of problems encountered by U.S. electronic firms exporting to Europe. The subsidies code is also of great potential interest to this industry because of foreign government efforts to develop high technology industries.

AIRCRAFT AND PARTS

Utah will be a beneficiary of the Aircraft Agreement, which will totally eliminate

tariffs on aircraft in major foreign markets and will subject foreign government purchasing and subsidy practices in this sector to new disciplines. The world aircraft market should experience rapid growth in the coming years and the Aircraft Agreement, along with the subsidies code, should ensure the U.S. producers will have a fair chance to compete.

FABRICATED STRUCTURAL METAL PRODUCTS

Structural metal producers should benefit from the subsidies code and improved domestic procedures to deal with foreign unfair trade practices. Significant tariff cuts by the EC, Canada, and Japan should help exporters. Exclusion of key U.S. construction agencies from the government procurement code should minimize any loss of U.S. Government business.

CONSTRUCTION AND RELATED MACHINERY

This large export industry stands to gain substantially from improved access to both developed country and developing country markets. Significant tariff reductions by the EC and Japan and liberalization of Canada's machinery program and "made in Canada" provisions are of considerable value. Canada reduced tariffs on nearly $800 million of U.S. exports of construction machinery. The EC cut tariffs 35 percent on nearly $500 million of imports from the U.S. Japan made a similar tariff reduction on nearly $100 million of imports from the U.S. Improved access to major developing country markets as a result of tariff reductions also is important. The valuation, standards, procurement, and licensing codes will all benefit U.S. exporters of this type of equipment.

MOTOR VEHICLES AND EQUIPMENT

The tariff negotiations will provide benefits with very little cost to the motor vehicles and body industry in Utah. Japan and some other developed countries, like Switzerland and Norway, have made significant cuts in their tariffs on trucks, buses, and cars. Japan reduced auto tariffs 61 percent to an average rate of less than three percent. On the other hand, U.S. tariff cuts on trucks and autos were minimal—less than 20 percent on the average so that U.S. and Japan average tariff rates will be nearly equal. In the area of non-tariff measures, benefits will be more substantial. The standards code provides an especially important mechanism for dealing with standards that have been a significant and growing barrier to international trade in motor vehicles, while the code's prohibition of discrimination against imported products in certification and testing should prove particularly helpful to vehicle exporters. The customs valuation and government procurement codes should help reduce the valuation problems in exporting and improve opportunities for producers to bid on government procurement contracts overseas.

STEEL

To deal with recurring cyclical problems in the steel industry, the U.S. and its major trading partners established an international steel committee as part of the Organization for Economic Cooperation and Development. The Committee will create an improved environment for the U.S. to act when conditions warrant and to influence other governments to act constructively. Steel producers should be primary beneficiaries from improved international disciplines under the subsidy code and more effective domestic procedures to deal with harmful unfair foreign trade practices that the industry has been concerned with for years. U.S. steel tariffs were cut less than average (26 percent overall) because of the import sensitivities in this area and cuts were deferred until 1982 in light of the current world overcapacity problem. Most steel tariffs were also converted to percentage terms to stop erosion of tariff protection due to inflation.

AGRICULTURE

The MTN will result in new export opportunities for American agriculture through the reduction of foreign barriers to trade and improvement in the rules governing trade in agricultural products. The benefits of this agreement go beyond the farm sector alone. Agriculture and its related enterprises—transportation, processing, distribution, retailing, and exporting—generate one-fifth of all of the jobs in the nation. Agriculture is the nation's biggest industry, and its growth over the last ten years has been based largely on exports.

As a result of these negotiations foreign countries will reduce barriers which affected almost $4 billion in 1976 trade, representing almost one-fourth of U.S. farm exports subject to foreign barriers. These concessions which cover some 450 different products are expected to increase U.S. agricultural exports by at least $500 million annually. Potentially even more important for the long term is negotiation of international codes of conduct in trade. These codes will establish clear guidelines and new disciplines on the use of practices such as product standards, import licensing, export subsidies, and other practices that lead to unfair competition in world markets. This should help create a positive climate for further growth in U.S. farm exports, which topped $30 billion in 1979.

Concessions gained in agricultural commodity sectors of particular importance to the State of Utah are listed below.

LIVESTOCK AND MEATS

The United States considered liberalization of world markets for high-quality beef one of its highest priorities in the Tokyo Round of Multilateral Trade Negotiations. As a result, significant trade liberalization was achieved in this sector. Japan agreed to increase its annual import quota for U.S. high-quality beef from 6,800 MT in 1977 to 30,800 MT by 1983. The European Community granted the United States an annual quota for high-quality beef of 10,000 MT. In the past the United States has been denied access for its high-quality beef into the EC. Austria agreed to grant the United States a quota of 300 MT for high-quality beef with the annual quota to increase to 600 MT in eight years. Switzerland granted the United States a 1,000 MT quota for high-quality beef with an additional international quota for high-quality beef of 1,000 MT which the United States will have an opportunity to supply. Concessions on beef were also received from Taiwan, Canada and the Philippines. Collectively, these concessions will likely result in U.S. beef export increasing by over $200 million annually by 1983.

Significant tariff reductions on variety meats were obtained from the EC and Japan. Japanese reductions include duty cuts for seven categories; the EC reduced duties on 12 variety meat categories; the value of these reductions is estimated at $9.8 million.

Japan agreed to reduce their duty on pork imports to 5 percent during periods in which there is no variable levy imposed on pork imports.

FEED GRAINS

Concessions on feed grains in developing countries will increase U.S. sales abroad by an estimated $26 million.

Peru and Ecuador have agreed to liberalize procedures for the licensing of imports of grain for feed. The value of these concessions is estimated to be $3.1 million trade in Peru and $7.5 million in trade to Ecuador.

Taiwan will equalize the sorghum and corn tariffs, increasing sorghum grain exports to $6 million.

DAIRY PRODUCTS

In the MTN the strong interest of dairy producers and consumers were balanced.

The United States will increase its overall quota levels for imported cheese by about 14 percent, while at the same time putting a greater proportion of imports under quantitative limitation. In 1978, about half of all cheese imports were under quota. Once the newly negotiated agreement goes into effect, approximately 85 percent of total cheese imports will be under quota, assuming that the quotas are completely filled. Cheese remaining outside quota will be limited to such specialty items as Stilton from England, Roquefort from France, sheep and goat's milk cheeses, and soft-cured cheese in retail packaging such as Brie and Camembert. The new import system will incorporate under quota the current price-break system, which permitted unlimited imports of certain high-priced cheeses.

Cheese imports in 1977 totalled 95,015 metric tons (MT), in 1978 109,878 MT, and are expected to continue to rise throughout 1979 because of strong demand and rising meat prices. Under the new quota system, imports in 1980 and beyond are estimated at about 111,000 MT quota cheese and about 14,000 MT of nonquota cheese. For the next few years, cheese imports as a percentage of total U.S. consumption will therefore remain close to their average of the last several years (6.2 to 6.3 percent).

Mr. MATSUNAGA. Mr. President, the multilateral trade negotiations mark a milestone in the history of international trade. The United States will greatly benefit from the provisions of the codes resulting from the negotiations. As a member of the Finance Committee and cosponsor of the bill, I wholeheartedly support the codes and encourage my colleagues to join me in guiding the United States into a new era of international trade relations.

Ambassador Robert Strauss and his deputies, Ambasssadors Alan Wolff and Alonzo McDonald deserve highest commendation for the superb manner in which they represented the United States, and the invaluable contributions they made to our country in negotiating these codes. Their deft handling of sensitive import and export problems has resulted in a package which commands near-universal support in this country—a rare accomplishment, indeed.

This achievement marks the first time that agreements have been concluded which deal with a broad range of non-tariff obstacles to trade, such as export subsidies, Government purchasing requirements, import quotas, licensing procedures, product standard setting, and customs valuation methods. A mechanism is also established which will enable U.S. firms to contest unfair trade practices of our trading partners. Coupled with the significant tariff reductions agreed to by the United States and several other countries, most notably Japan, the multilateral trade negotiations will result in a great expansion of U.S. trade and an unprecedented freedom of international trade.

The agreements are not perfect, but overall they accomplish far more than anyone expected a few years ago. They receive the almost unanimous support of all sectors of the American economy. While individual codes may not go as far as some might wish they form a solid base to facilitate world trade. The agreements give us the tools to build a fair and open international trading system, to remove obstacles which prevent American products from penetrating foreign

markets, and to improve our international trading position. With these important implements, we shall be able to increase the U.S. world market and to modernize the international trading system for the benefit of all.

The benefits of these agreements to the United States are many. American firms will have the opportunity to compete on a nondiscriminatory basis for lucrative foreign government procurements contracts, opening a $30 billion market. They will enjoy a stronger competitive position through international rules limiting Government export subsidies. New procedures will minimize the effect of discriminatory health, safety, and technical standards. Foreign industrial tariffs will be reduced an average of 30 percent. And businesses will achieve greater access to foreign markets for farm products from reduced agricultural tariffs and increased quotas. In fact, if the provisions of the subsidy and other trading codes are aggressively and effectively implemented, the net annual gains for U.S. agriculture are estimated at $356 million.

The codes will also set up important administrative and judicial procedures by which the United States can take quick, meaningful action against the effect of foreign discriminatory practices on our domestic and export markets. Overall, U.S. rights will be better protected by the codes.

The most important of the codes is the custom valuation agreement, which, unlike most of the provisions which deal with specific industry segments, will apply to the vast majority of all transactions in dutiable goods. The establishment of uniform and less arbitrary customs valuation systems will result in greater certainty in exporting by prohibiting customs practices which prevent our products from entering foreign markets at fair prices. Day-to-day trade will be greatly facilitated by this code.

A particularly pleasing facet of the implementing legislation to me is that it does not stop with the passage of this bill. The prospective provisions of the legislation and of the agreements grant the President the authority to continue the system of private sector committee to advise the Government on trade policy, and instruct the administration to submit promptly a separate proposal to centralize the Government's trade functions. Through this aspect of the legislation, trade policy and relations will continue to progress as we enjoy the benefits of ever-improving trade conditions and international relations.

In conclusion, Mr. President, this legislation is as important to our national well-being as any we will consider in this session. Our Nation's economy will be significantly boosted by this unprecedented reform of the international trading system, which provides a single language and a single set of rules to govern world trade.

Our country needs the benefits which will flow from the multilateral trade negotiations, Mr. President. Failure to pass this implementing legislation would surely result in a far more serious disruption of world trade than that which we are witnessing today. I call on all of my colleagues to join me in putting the United States on a new road to increased trade and international understanding.

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

Mr. ROTH. I yield back the remainder of my time.

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

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass? 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 Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Montana (Mr. BAUCUS) is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER (Mr. DECONCINI). Have all Senators voted?

The result was announced—yeas 90, nays 4, as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—90

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

NAYS—4

Hatch	Nelson	Proxmire
Melcher		

NOT VOTING—6

Baucus	Inouye	Pressler
Gravel	Laxalt	Stennis

So the bill (H.R. 4537) was passed.

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

Mr. ROTH. 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, the trade agreements which have been reached under the Tokyo round of the multilateral trade negotiations represent one of the most important economic matters—if not the most important economic matter—which will come before the 96th Congress. They will set the course for international economic relations for years to come, and I believe that the bill implementing them is deserving of our support.

The agreements reached in Geneva have as their aim the establishment of new international rules to insure that trade between nations proceeds fairly and equitably. They seek to reduce some of the many barriers that governments have erected against trade.

Tariff reductions agreed to are to be phased in over a period of 8 to 10 years. The agreements specifically reduce U.S. tariff rates an average of one-third. The tariff cuts average about one-quarter for the Common Market countries, and about one-half for Japan, which started with much higher tariffs than the others.

Most importantly, the agreements reduce the NTB's, or nontariff barriers, that governments have erected against trade. Codes on nontariff barriers which were agreed to seek, among other things, to:

Reform arbitrary practices in customs valuation, which have been used to keep out foreign products;

Open to competitive international bidding more of the market for supplying goods to governments; and

Eliminate the use of Government subsidies to encourage exports of manufactured goods.

The implementing bill for the agreement will shorten the time in which the executive branch must act to protect domestic industries from foreign dumping of products in U.S. markets. The often lengthy proceedings have understandably been a bone of contention with business and labor groups, and the new procedures devised should go a long way to resolving this difficult problem.

In addition, the implementing bill requires the President to report to Congress within 2 years after implementation on the effectiveness of the MTN in opening up foreign markets to U.S. products.

All of these provisions should be of distinct help to American exporters and, thereby, American workers and business.

Many American jobs and much of our production depend on exports. Indeed, it is estimated that one out of every nine American workers employed in manufacturing industries produces goods for export, and $1 out of every $4 of farms sales represents exports.

The State of West Virginia illustrates well these points. Some 3.8 percent of the State's manufacturing jobs depend directly on exports, and some 6.5 percent of the State's manufacturing jobs indirectly depend on exports. In other words, about 1 out of every 10 manufacturing jobs in the State of West Virginia is tied to export markets.

The agreements should also aid our Nation in its No. 1 economic objective—stemming inflation. Through the direct effect of lower tariffs on

prices and through numerous indirect effects, including smaller price increases for domestic products competing with imports, inflation should be reduced over the long term.

The broad-based support for the agreements which is in evidence derives in large part from earlier labors by the Congress. First, the 1974 Trade Act passed by Congress established the mandate for U.S. participation in the MTN. Second, it provided for congressional oversight of the negotiations themselves.

Specifically, the Trade Act authorized the President to:

Negotiate reductions of duties above 5 percent by a maximum of 60 percent and complete elimination of existing duties of 5 percent or less;

Enter agreements for the reduction, elimination, or harmonization of nontariff barriers, provided that implementing legislation is approved by both Houses of Congress;

Seek agreements to insure fair and equitable access, at reasonable prices, to supplies important to the U.S. economy;

Negotiate improvements in certain areas, including the development of a code of conduct on export subsidies; and

Implement a generalized system of tariff preferences for the benefit of developing countries.

Accomplishing these objectives set out in the Trade Act has been the responsibility of our distinguished Special Representative for Trade Negotiations, Ambassador Robert Strauss. He has labored long and hard to achieve them. His efforts will help to insure that we are able in future years to expand U.S. industrial and agricultural exports.

Mr. President, the MTN agreements negotiated under the Tokyo round are the antithesis of the "beggar-thy-neighbor" or protectionist policy of high tariffs that was followed in the 1930's and that helped propel the entire world economic system into an economic tailspin.

The MTN agreements should serve well our domestic economy—especially if we work to insure that other countries are following the new rules of international trade established under them. And the MTN agreements should serve well the world economy by reinforcing the economic basis for stable political relations among industrial countries, and by contributing to improved relations between industrial and developing countries.

On trade matters the stakes are high for the United States and other countries, and the implementing legislation is deserving of our support. The chairman of the International Trade Subcommittee of the Finance Committee, Mr. RIBICOFF, the ranking minority member (Mr. ROTH) many other Senators who have devoted long years of work to this important area of our economic life are to be commended for their contributions.

Mr. President, I yield to the Senator from Vermont.

NOTICE OF MEETING OF U.S. GROUP, INTERPARLIAMENTARY UNION

Mr. STAFFORD. Mr. President, this will serve to advise Members of the Senate of a meeting of the U.S. group, Interparliamentary Union, on Wednesday, July 25, at 3 p.m., in the Capitol, room H-236. I make this announcement for Senator WILLIAMS and myself.

One of the purposes of this meeting is to discuss arrangements for the fall conference to be held in Caracas September 13-21.

Would Senators please advise Mrs. Mary McLaughlin, on extension 4-7953 or 4-4615, whether or not they plan to attend?

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I merely take the floor to remind Senators that the Senate will now resume consideration of the food stamp bill. There will be other rollcall votes today and the Senate hopes and expects to complete action on that bill today, even if it goes beyond 6:30 p.m.

INCREASED AUTHORIZATION FOR 1979 FOOD STAMP PROGRAM

The PRESIDING OFFICER. The Senate will now proceed with the pending business, S. 1309, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 1309) to increase the fiscal year 1979 authorization for appropriations for the food stamp program.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I rise in support of the Magnuson-McGovern substitute to S. 1309 as reported by the Senate Committee on Agriculture, Nutrition, and Forestry to amend the Food Stamp Act.

This legislation comes before the Senate today to meet two emergency conditions: First, food price inflation and a large number of new program participants have brought funding needs above the 1979 spending ceiling set in 1977; and, second, prior changes in eligibility and benefit provisions relating to excess shelter expense and medical expense deductions have brought substantial hardship to elderly and handicapped recipients.

The Food Stamp Act of 1977, which imposed spending ceilings on the food stamp program through fiscal 1981 and brought about these changes in eligibility requirements, did not anticipate the adverse economic conditions affecting both the price of food and fuel. At the time that law was enacted, the Congressional Budget Office projected a rise in food prices at between 3 and 4 percent per year. The reality is, however, that those prices may rise at least 22 percent in the 2 years since passage of the bill.

That law also did not foresee the substantial increases in the price of oil that have been imposed during the course of this year by the Organization of Petroleum Exporting Countries. Prices for home heating oil rose 25 percent in 1978 compared to the year before, and price estimates for this winter range upward from 80 cents per gallon.

In my State, this will mean substantial hardship, particularly for those most in need who are already having a difficult time making ends meet.

The increase in the trigger point for the excess shelter expense deduction, combined with the elimination of the separate medical expense deduction, enacted in the 1977 food stamp law, have been especially burdensome for those households participating in the food stamp program that contain an elderly or disabled person. Their shelter and medical expenses often consume the greater part of their small, fixed incomes. Reducing the level of food stamp benefits will force them to make an untenable choice between food and shelter and medical care.

Mr. President, as provisions of the Food Stamp Act of 1977 have been implemented during the course of this year, I have received a steady flow of complaints from the citizens in my State. In fact, my office has received literally hundreds of calls and letters from needy individuals and families in Maine who found this year's benefit reductions exasperating at a time when food and fuel costs are spiraling steadily upward.

If we do not pass this legislation today to increase the spending ceiling for the program, these people will be doubly hurt. The Department of Agriculture testified to the effect that lack of additional program funds will mean either a reduction in benefits by one-half in August and September, or a total shutdown of the program in September.

The amendment in the nature of a substitute which Senators MAGNUSON, MCGOVERN, and DOLE are sponsoring incorporates the provisions of the committee bill, S. 1309, lifting the fiscal 1979 spending cap and liberalizing the shelter and medical deductions for the aged and disabled; it includes four Helms amendments, three of which are similar to proposals made by the President, aimed at improving program administration and rooting out fraud and abuse; it extends benefits to handicapped persons living in community living centers; and finally, it would remove the spending ceiling for fiscal years 1980 and 1981.

I support this amendment. I believe it contains responsible provisions to enable the program to respond quickly to changing economic conditions while at the same time maintaining existing eligibility requirements and encouraging sound program management.

Passage of this amendment, Mr. President, is vital to alleviate hardship among the participants in the food stamp program, and I urge my colleagues in the Senate to support it.

I thank the Chair for recognizing me.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I would like to make a few comments and engage the distinguished floor manager in a short colloquy regarding an amendment. Could I inquire as to whether or not the floor manager will return to the floor shortly?

The PRESIDING OFFICER. The Chair observes the floor manager is not on the floor at this moment.

Mr. BUMPERS. Mr. President, I will go ahead and express my concern.

I had originally intended to offer an amendment to this bill, but in deference to the floor managers, who wanted to keep the bill as clean as possible in an effort to get it out and passed by August 1, I am not going to offer the amendment.

Not long ago, the Senate passed a resolution, Senate Resolution 90, which called on the Department of Agriculture to do a study of the National School Lunch Act and the child nutrition program of 1966 and report back to the Congress by the end of January 1980, about how well these programs were working.

There are 11 items specifically mentioned that the Department of Agriculture has been asked to report to the Senate on.

I hope that this report will take care of my concern. Let me preface my specific concern, by saying that, No. 1, the school breakfast program in my State, so far as I know, is working relatively well. We have 416 breakfast programs in 181 school districts; 48 percent of our school districts participate. The average daily number of participants is 41,736 children.

In each school breakfast, the Department of Agriculture mandates that there be three items given to the child. There must be a half pint of fluid milk as a beverage or over cereal. No. 2, there must be a half cup of fruit, or vegetable, or full strength juice. No. 3, a bread, or bread equivalent, rolls, cereals, biscuits, et cetera.

The problem I have did not come to me from my State. It came from a lunchroom manager in another State. She pointed out that approximately 50 percent of the food being given to the children in the breakfast program was winding up in the garbage cans after breakfast. The reason for this waste is that USDA requires that each child who goes through that breakfast line take all three items, in order for the school district to participate in the program.

They cannot just take the juice, or juice and bread, or the cereal and something else. They must take all three items; otherwise USDA will not reimburse that school district for the cost of that breakfast.

I understand, Mr. President, that it would be much more nutritious for those children if they took and consumed all three items. But the truth of the matter is that the whim or caprice of the child will dictate what he or she drinks or eats, not USDA. They will not be able to force it down them and make them consume it.

It occurs to me that there is considerable room for waste in this program. Simply because we have USDA trying to force the child to do something they may not want to do; and there is no way to force them to do it.

Senate Resolution 90, which was passed here a few months ago, instructed the Department of Agriculture, among other things, item 4, "Determine the effect of program participation by income category on the participant's nutrient intake and health."

That is just peripherally what I am talking about.

I would like to inquire of the floor manager as to whether or not he envisions the Department of Agriculture also analyzing in this study how much waste there is in the breakfast program as a result of the mandate by the Department of Agriculture that children take everything that is offered to them.

Mr. McGOVERN. Let me say to the Senator from Arkansas that I think his concerns are well placed as to the breakfast program.

I want to give him all the assurance I can that the Department will follow up on the kind of study he would like to see made.

We have checked with the Department since the Senator discussed this matter with me. Senate Resolution 90, which was agreed to approximately 30 days ago, does provide the kind of request to the Department that will accomplish what the Senator is interested in.

I think it is especially pertinent to point out that the legislative history we are making here today reinforces that Senate resolution.

I think it is wise the Senator brought this up and made it part of the RECORD here this afternoon. I will give the Senator my personal assurance as the subcommittee chairman with oversight on this program, that we will make certain that the Department includes in the study that they now have underway those concerns about the program the Senator mentioned here this afternoon.

Mr. BUMPERS. I thank the Senator very much.

I feel sure that after this colloquy between us here on the floor, that the USDA, will, indeed, respond.

I do not know what the total cost of the program is, but if we translate the 50-percent waste in the program approved today across the Nation, that translates into a tremendous saving we might effect.

As I say, it would be highly desirable to know that all of those children are, indeed, going to get and consume all three food components. It is designed to be a well-balanced breakfast, and I am sure it is. But in the real world they will not always consume those items.

It occurs to me that they can make some determination, with a great deal of precision, as to how much of the breakfast is going into the garbage can. I hope they will also tell us which of those items are most likely to be consumed.

I appreciate the Senator's cooperation on this matter.

As always, he is very magnanimous and generous in things like this.

I hope the report can come back with something we can look at seriously.

Mr. McGOVERN. I thank the Senator. I think this has been a helpful effort.

UP AMENDMENT NO. 442

(Purpose: To deny food stamps to households where head of such household is engaged in a labor strike)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), for himself and Messrs. HELMS, McCLURE, HOLLINGS, HAYAKAWA, DOLE, TOWER, HUMPHREY, and WALLOP, propose an unprinted amendment numbered 442:

Following section 10 of the McGOVERN-DOLE substitute amendment No. 362, insert the following new section:

DENIAL OF FOOD STAMPS TO HOUSEHOLDS ENGAGED IN LABOR STRIKES

SEC. 11. Section 6 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection as follows:

"(i) Notwithstanding any other provision of this Act, no household shall be eligible to participate in the food stamp program if the head of the household is on strike against his employer as the result of a labor dispute, except where such household was eligible for participation in such program prior to the time the head of the household went on strike against his employer. The provisions of this subsection shall not apply in any case in which the head of a household is not working because of an employer lockout. As used in this subsection the term 'head of the household' means the member of any household who provides over one-half of the support for the household.".

Renumber "SEC. 11" as "SEC. 12".

Mr. THURMOND. Mr. President, the amendment I am now offering would deny food stamps to households whose head voluntarily engages in a labor strike.

Earlier this year, I introduced legislation, S. 84, which would amend the Food Stamp Act of 1977 to prohibit striking workers from receiving food stamps. This bill was referred to the Senate Committee on Agriculture, Nutrition, and Forestry, but unfortunately has not been reported to the full Senate.

Mr. President, I do not believe that a majority of our people are aware that striking workers can receive food stamps. When our taxpayers realize that fact, they are outraged because their tax dollars are being used to intervene in a labor dispute.

A strike is a tactic used by one side in a labor dispute. Those going on strike do so in the belief that it will strengthen their position at the negotiating table. By going on strike, they take the risk of loss of salary and other benefits which they receive while they are working. If the Federal Government provides food stamps to these people who voluntarily walk off their jobs, it injects itself into the dispute on the side of the union bosses. This is not fair. It is not fair to the other side of the bargaining table, and, most of all, it is not fair to the American taxpayer who must bear the cost of the food stamp program.

A Wharton School of Finance study has documented the massive use of food stamps by strikers in major steel, electrical, automotive, and other strikes in 1969–71 at a cost to the public at that time of $240 million. A General Motors strike in 1970 resulted in about half of the 170,000 strikers receiving food stamps, with the cost to the Federal Government and the State of Michigan between $10.7 million and $14.3 million.

The coal strike of the winter of 1977–78 is one of the most recent evidences that this amendment is needed. Nationwide, $39 million worth of food stamps went to striking coal miners over the 3-month duration of the strike. Finally, the situation became so serious that the President invoked the Taft-Hartley Act. Yet, food stamps still went to the strikers.

Mr. President, there has been much discussion in recent years of the need for "welfare reform." When this subject is debated, the findings and recommendations of Dr. Martin Anderson, in his book entitled, "Welfare, The Political Economy of Welfare Reform in the United States," are often cited. I would like to quote a paragraph from page 163 of Dr. Anderson's treatise. He says:

> Point Four: Remove inappropriate beneficiaries from the welfare rolls. There are certain categories of welfare recipients whose eligibility, while legal, is questionable. With the needy-only principle as a guideline the welfare rolls should be examined carefully and the regulations changed to exclude any groups who fail to qualify. Two prime candidates for disqualification would be workers who strike and then apply for welfare benefits claiming loss of income, and college students who queue up for food stamps.

While Dr. Anderson has reference to welfare, the same principle is surely applicable to food stamps. Strikers should not be entitled to any form of taxpayer subsidy that aids their side in a collective bargaining situation.

Mr. President, I think it is most interesting to point out that when President Carter first sent to Congress his recommendations for welfare reform, he included a proposal to substitute cash assistance in lieu of food stamps. Labor leaders objected, however, to "cashing out" food stamps for all present food stamp recipients. They were obviously concerned that the taxpayers would never stand for giving cash to strikers. To accommodate their concerns, the President redrafted his proposals. Well, Mr. President, what is the difference? Whether the public assistance comes in the form of food stamps or cash, the same principle is violated. Either is simply bad public policy.

The time has come to reevaluate our priorities in regard to the food stamp program. Food stamps to strikers only result in more and longer strikes with consequently greater damage to the economy. The Federal Government should not feed those who voluntarily refuse to work. That is the responsibility of the striking union.

Mr. President, the USDA has stated that in the fourth quarter of fiscal year 1978, the average monthly food stamp participation rate decreased in the State of West Virginia by 21.3 percent, while the participation rate for the mid-Atlantic region decreased 2.8 percent. The USDA lists settlement of the coal strike as the reason for the 44,500 participant decrease.

A similar decrease occurred in Kentucky. The participation rate decreased 7.7 percent while the participation rate for the Southeast decreased 3.1 percent—a decrease of 27,082. USDA lists settlement of the coal strike as the reason for the large decrease.

Finally, Mr. President, I reiterate that strikers are different from other food stamp recipients and should be treated accordingly because:

First, ample notice is usually given when negotiations are impending which might lead to a strike, and a person of even ordinary prudence should be able to anticipate that income stops during a strike;

Second, the need of strikers is only temporary, lasting only as long as the strike itself; and

Third, this is most important, the striker creates his own need for food stamps by electing to go on strike.

I urge my colleagues to support this amendment.

Mr. President, I ask for the yeas and nays on this amendment.

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

The yeas and nays were ordered.

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

Mr. THURMOND. I am pleased to yield to the distinguished Senator from North Carolina.

Mr. HELMS. I thank the distinguished Senator from South Carolina.

Mr. President, I commend the Senator for this version of the amendment to prohibit food stamps to strikers. As the Senator knows, he and I have worked together closely for the past 6 years in this connection to eliminate what seems to me and other people in this country to be a perfect outrage.

I do not know how it is in the States of other Senators, but in North Carolina there is near unanimity on the question now before the Senate. The people of my State simply do not understand why workers who deliberately walk off their jobs should be entitled to food stamps and other welfare benefits. The citizens of my State would not avail themselves of that kind of opportunity.

The point the Senator from South Carolina has made is exactly right. By providing food stamps for strikers, it automatically involves the Federal Government in one side of a labor dispute. If there is anything the Federal Government should stay out of it is a labor dispute; and it should let the dispute be settled on the issues and not be subsidized by the taxpayers' money.

Mr. President, by prohibiting the distribution of food stamps to individuals eligible for food stamps only because the head of the household is on strike, this amendment will serve to correct a basic inequity in the laws: Unnecessary Federal intervention in labor disputes.

The food stamp program was established in 1964 to help provide an adequate diet for those Americans whose incomes are below the poverty level due to their inability to work. It has done a great deal for needy Americans, and I support its operation on behalf of the truly needy of our society—but only the truly needy who are unable to support themselves.

Congress included a work requirement in the Food Stamp Act which makes it plain that the congressional intent in designing the food stamp program was that it should not benefit those who refuse to work.

Congress has failed, however, specifically to prohibit employed workers, who qualify for the program only because of their participation in a strike, from receiving benefits under the program. The interests of the American consumer and taxpayer, and the maintenance of our system of free collective bargaining demand that such a prohibition be established.

Free collective bargaining has been chosen by Congress as the system of labor-management negotiation best able to promote economic stability and avoid industrial strife. This system protects the rights and interests of workers, companies, and consumers. The imperative fundamental premise of free collective bargaining is absolute Government neutrality in the labor-management contest. While the Government acts to oversee and referee the process, the results of the contest are determined by the independent bargaining strengths of the parties.

Public assistance to either side in a labor dispute violates the concept of free collective bargaining and violates the rights of the opposing party. Public assistance in the form of the distribution of food stamps to strikers' households has the undeniable effect of giving a distinct economic advantage to the union in the collective bargaining contest.

The duration of strikes has increased significantly since the advent of welfare payments to strikers. To continue to make these payments will only fuel this trend, thus bringing more pressures on our already troubled economy and further undermining the principles of free collective bargaining which is so vital to the American free enterprise system.

In this era of perilous inflation, constantly rising taxes, and public discontent with the state of the economy, we should be particularly sensitive to the needs of the working American, who is both taxpayer and consumer. I believe we should respond to any opportunity to lighten the burdens of inflation and taxes and especially when this can be done without hardship to any legitimate recipient of government services. Due to the average annual income of most union members and the strike benefits available from union funds, few strikers can plead that they are subjected to hardship through no fault of their own simply because they are denied food stamps to which they are not entitled.

The granting of welfare benefits to strikers deals a double blow to the taxpayer-consumer. Food stamp benefits allow workers to prolong strikes and drive up the costs of production, which are ultimately passed on to the consumer. Our current inflation has been made worse by subsidized, lengthy strikes, and the abnormally high settlements and decreased production of goods and services. By using tax dollars to subsidize strikers, the Government is increasing the consumer's tax burden while using

his money to drive up the cost of the very goods and services he must buy.

Now is the time to break the vicious circle which penalizes every American taxpayer and consumer. By prohibiting the distribution of food stamps to strikers, Congress can reduce the cost of the program to the taxpayer and reduce the rate of inflation.

Mr. THURMOND. I thank the Senator.

Mr. President, I believe the amendment shows the cosponsors, but for the record I state that this amendment is cosponsored by the following distinguished Senators: The Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. MCCLURE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Texas (Mr. TOWER), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. DOLE), the Senator from New Hampshire (Mr. HUMPHREY), and the Senator from Wyoming (Mr. WALLOP).

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

Mr. THURMOND. I yield to the able Senator from Kansas.

Mr. DOLE. Mr. President, the amendment offered by the Senator from South Carolina (Mr. THURMOND) to the pending food stamp legislation would make strikers ineligible to receive food stamp benefits. This is a matter which has been debated by the Congress in previous years, and is one which I think still merits our attention.

Mr. President, it goes without saying that I am a strong supporter of the food stamp program—in fact, too strong, in the eyes of some of my colleagues.

One of my concerns is that we should help those people who cannot work. The strikers' situation referred to here is contradictory to reasons why I support the food stamp program.

We introduce welfare programs, and we talk about workfare provisions. In fact, most people are not eligible unless they are willing to work. If you should strike, however, you are still eligible for food stamps.

As the Senator from North Carolina pointed out, this interferes with the collective-bargaining process, and may subsidize one side in a labor dispute. I am for collective bargaining and think it should be allowed to work. But I worry that this provision may give one side some advantage.

I understand that we are not talking about a great deal of money—less than 1 percent of the caseload. But, it still adds up to $30 to $40 million, which is a lot of money.

It seems to me that our effort today is more than symbolic. This is an important amendment, and I commend the distinguished Senator from South Carolina for offering it. I am pleased to join him as a cosponsor.

One of the reasons I have been such a strong supporter of the food stamp program is that Congress has earnestly tried to target benefits just to those persons who legitimately deserve some assistance. There are provisions in the act which prohibit persons from giving up jobs in order to qualify for food stamps. There are provisions which mandate that unemployed recipients must search for work. There are provisions which call for pilot projects to explore the feasibility of a workfare requirement, where all persons receiving benefits must accept employment to earn their benefits. It is obvious to me that the Congress is serious in its efforts to encourage recipients to work.

Given this fact, it seems inconsistent that we allow strikers to receive benefits. Strikers have a choice of working or not working, and they choose not to work. Most other recipients of food stamps do not have the luxury of deciding whether or not they should work. If they did, they would be declared ineligible recipients since they would not meet the work requirements.

It is hard for me to justify a policy which allows strikers to receive food stamps. I realize that less than 1 percent of the food stamp caseload is comprised of strikers, but this still means that several thousand strikers are receiving benefits, for when there are 18 million persons on food stamps, 1 percent of the caseload represents 180,000 individuals. The Department of Agriculture estimates that three-tenths of one percent of all households contain a striker. If strikers were deemed ineligible, the Department estimates a savings of $30 to $40 million in fiscal year 1980. It also reports that because the striker has no income, his household allotment is higher than the average household benefit.

In addition to the basic inequity that occurs when strikers are allowed benefits, I think we should also remind ourselves that we are here today because of problems stemming from insufficient funding for the program. Money is tight, and because of the cap there has simply not been enough money to give benefits to persons covered under the program.

I have continuously supported efforts to raise or lift the cap because I believe that we have an obligation to deliver the benefits we have promised the public. At the same time, I have argued that if we want to cut down the costs of the program, we should make programmatic changes which would target benefits directly to the most needy. I do not feel that strikers constitute the most needy recipients, and in an effort to hold down costs, I support this amendment eliminating benefits to this group of persons.

If the past record is any indication, there will be opposition to the amendment. But I think that we should all be looking for ways in which to reduce the spending in this area. My view is that it makes the most sense to cut benefits to those who have an opportunity to work, rather than to cut benefits to the elderly, the disabled, or other persons in dire need of assistance.

I urge my colleagues to give favorable consideration to this amendment.

Mr. MCGOVERN. Mr. President, first of all, while the Senator from Kansas is in the Chamber, I agree with him that he has been a very strong supporter of the food stamp program, and I know sometimes it has been at some political cost to himself.

So I take advantage of this opportunity to commend him for standing up for the program and recognizing the merits that this program has. Over the years, it has been a privilege to work with him in trying to strengthen the program.

But I have to say, in all due respect about the present amendment offered by the Senator from South Carolina, that I do not think it strengthens the program. Quite the contrary, it deprives a certain category of Americans of rights that are available to all other citizens.

Let me make clear that going on strike does not qualify anyone for food stamps. They have to meet the same requirements that everyone else does, whether they are on strike or whether they are not.

There is nothing about being on strike that is going to qualify a single person for any benefit that he does not have when he is not on strike.

I make another point that strikers are being treated as though they are not taxpayers. We have had several phrases, several repetitions here this afternoon about the taxpayers being tired of paying for things for strikers. Well, strikers just happen to be taxpayers just the same as the rest of us and over the years their taxes have made possible the food stamp program and all these other social programs.

Most of these people, if they do go on strike, have long periods of time when they are working and having taxes withheld from their weekly or monthly checks that go to pay the cost of these social programs.

So we do not talk about strikers against taxpayers. They are one and the same.

If one wanted to achieve some purpose here today of punishing only those who are on strike, even this is not achieved by this amendment. You are not only eliminating the striker by this amendment, but you are eliminating all the children in that family. The amendment eliminates the household that includes a striker. That is the way the food stamp program works. It deals with the households so that even those Senators who wanted to manifest some kind of anti-strike bias here would be unfairly discriminating against the children in that family who have had nothing to do with the decision whether there is a strike or whether——

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

Mr. MCGOVERN. I yield.

Mr. THURMOND. The amendment does not pertain to those households who are on food stamps prior to engaging in a strike. In other words, if they were on food stamps already, this amendment will not take them off.

Mr. MCGOVERN. That is correct.

Mr. THURMOND. So I think the point the Senator made would be in error.

Mr. MCGOVERN. But it does take the household off. According to the way this amendment reads, if there is a striker in that household the whole family goes off.

Now, beyond this the amendment applies, and here again I am taking——

Mr. THURMOND. Mr. President, not if the household was eligible for stamps.

Mr. MCGOVERN. That is correct.

Mr. THURMOND [reading]:

Notwithstanding any other provision of this act, no household shall be eligible to participate in the food stamp program if the head of the household is on strike against his employer as a result of a labor dispute, except where such household was eligible for participation in such program prior to the time the head of the household went on strike against his employer.

Mr. McGOVERN. I understand the point the Senator is making.

But let me stress to the Senator that the crucial point to keep in mind is that the striker and his household or her household has to meet the same specifications with or without this amendment that other citizens have to meet to qualify for food stamps.

Those Senators who may be hostile to the whole concept of strikes need to keep in mind that under the terms of this amendment even a striker who voted against the strike once that strike is on and the plant is closed is covered by this amendment.

This amendment, if it were to pass, would single out one group of Americans who would become ineligible for the food stamp program. At the present time, no group is either automatically eligible or automatically ineligible. You have to meet very tough criteria that are laid down in the food stamp law.

Those criteria include income. If the income of that striking household is above a certain level, they are automatically excluded. If they have assets with or without income that are in excess of $1,750, they are excluded. If they refuse to register for work, they are excluded.

All of those criteria have to be met by a striker the same as other Americans.

Mr. President, almost every time we have food stamp legislation before the Senate an amendment like this is offered. I think it is important for us to lay this issue to rest, if that is possible, by making it clear to our colleagues in the Senate and to the country as a whole that striking families—the striker and any member of that family—are not given any benefits under the food stamp program that are not available to other citizens. They have no particular rights or privileges that are not available to other Americans, and that there is nothing about a strike that automatically entitles anyone to food stamp programs.

I am going to offer a substitute amendment which has the effect of making that clear.

UP AMENDMENT NO. 443

(Purpose: Substitute for Senator Thurmond's amendment to amendment No. 362)

Mr. McGOVERN. Mr. President, I send the amendment to the desk, and it is very short, so I ask the clerk to read it.

The PRESIDING OFFICER (Mr. BOREN). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) proposes an unprinted amendment numbered 443 as a substitute to the Thurmond unprinted amendment numbered 442.

In lieu of the language proposed to be inserted by Mr. Thurmond, insert on page 10 between lines 22 and 23 a new section as follows:

"DENIAL OF BENEFITS TO CERTAIN HOUSEHOLDS

"SEC. 11. Section 6 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (i) as follows:

"'(i) No household that contains a person involved in a labor-management dispute shall be eligible to participate in the food stamp program unless the household meets the income guidelines, asset requirements, and work registration requirements of this Act.'".

On page 10, line 24, strike out "Sec. 11" and insert "Sec. 12" in lieu thereof.

Mr. McGOVERN. Mr. President, I think it is clear from the reading.

Mr. THURMOND. Mr. President, let me ask the Parliamentarian if this amendment will be in order.

The PRESIDING OFFICER. Does the Senator from South Dakota yield for that purpose?

Mr. McGOVERN. I yield to the Senator for a parliamentary inquiry.

The PRESIDING OFFICER. The amendment is in order as a second degree amendment.

Mr. THURMOND. Mr. President, I understand that the amendment that I am amending is offered as a substitute.

The PRESIDING OFFICER. The Chair understands that the substitute does not count. The first substitute for a bill does not count in terms of degree, that the Senator's amendment is an amendment in the first degree, and this one is an amendment in the second degree.

Mr. HELMS. Because it was treated as original text; is that correct?

The PRESIDING OFFICER. The first substitute for a bill from the floor does not kill a degree unless there is a committee substitute for the bill which it seeks to replace. The committee substitute was agreed to as original text. So, therefore, the first substitute for the bill from the floor does not kill a degree. So, therefore, the McGovern amendment to the Thurmond amendment to the McGovern substitute for the bill would be an amendment in the second degree.

Mr. McGOVERN. Mr. President, I think it is clear from the reading of the amendment what it attempts to do and perhaps this accomplishes much of what the Senator from South Carolina had in mind.

It does make very clear that the person on strike has to qualify the same as any other citizen for the benefits of this program. They have got to qualify on grounds of income, they have got to qualify on grounds of assets, they have got to qualify on the grounds of work registration.

I do not see any point in belaboring the argument any further. Mr. President, I ask for the yeas and nays on this amendment.

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

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. 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. McGOVERN. Mr. President, during the quorum call, the Senator from South Carolina (Mr. THURMOND), and the Senator from North Carolina (Mr. HELMS), and I have been talking about the anxiety that has developed over the question of food stamps for strikers and for households where there is a striker involved.

One of the concerns expressed by the Senators who offered the original amendment, the one for which I have offered a substitute, is that we get some better accounting procedure on the part of the Department of Agriculture as to how many persons participating in the food stamp program are involved in strikes, and not only the numbers of persons involved but the costs of that program to the Treasury.

As far as I am concerned, as one who is vitally interested in the success of this program and also in doing what I can to strengthen public confidence in the program, I would think that those suggestions should be carried out by the Department of Agriculture, and I will do everything I can as the floor manager of this bill and the chairman of the subcommittee that has jurisdiction over the program to see that that is done.

We can make it clear, I think, in the legislative history today, that this is the concern of the Senate. We will follow up in correspondence with the Department of Agriculture to see that the concern which has developed here is expressed by the procedures developed by the Department.

Mr. HELMS. Mr. President, I am greatly encouraged by the attitude of the distinguished Senator from South Dakota, and I commend him for it. Both he and I and the Senator from South Carolina, and other cosponsors of the Thurmond amendment, so-called, agree that there ought to be equity of treatment under all laws.

The concern that the Senator from North Carolina has about the food stamps for strikers issue is that heretofore the Agriculture Department has been totally unwilling to keep any statistics or do any investigative work on this matter. If the Senator from South Dakota is willing to work to press the Agriculture Department to make sure that proper monitoring of this sort of thing is conducted and full statistical information is made available to Congress, so that all will know precisely what is going on, then I am inclined to support the amendment wholeheartedly. All I want, as one Senator, is to stop the prac-

tice of hanky-panky in terms of some local administrator, in a labor union-management dispute situation, issuing food stamps to strikers on a helter-skelter basis without adequate verification of eligibility.

If the Agriculture Department can be persuaded to button down this situation and put an end to it, and to make strikers qualify on the basis of asset requirements, work registration requirements, and so forth, that is fine. But we have had, in my office alone, countless reports of strikers who have not made any effort whatsoever, I will say to my friend from South Carolina, to register for other employment during a strike. We have had countless reports of strikers with assets in the tens of thousands of dollars who were drawing food stamps simply because, as the Senator from South Carolina has put it, they are on strike.

If we can put an end to that sort of thing, fine. I will ask my friend from South Dakota if he will join the Senator from North Carolina and others in signing a letter to that effect to the Secretary of Agriculture.

Mr. McGOVERN. I have no problem with that at all. I will be glad to join in it.

Mr. HELMS. Mr. President, I think we are making great headway here. I will ask the Senator from South Carolina if he will join in that. Of course, it is his privilege to decide whether or not to do so, but I think we have made some headway.

Mr. THURMOND. Mr. President, the food stamps for strikers have been abused, there is no question about it. This is a very serious matter.

However, in view of the amendment offered by the distinguished Senator from South Dakota, and the colloquy that followed between him and the able Senator from North Carolina, I think the matter has been clarified to a great extent.

As I understand, both are going to sign a letter to the Secretary of Agriculture setting out this situation. Following that, the Secretary of Agriculture will be urged to keep the necessary records so we can tell exactly how many striking workers are receiving food stamps.

Then, at a later date, we will be able to take steps to correct the matter.

Mr. McGOVERN. I think we can give the Senator our full assurance on that matter.

Mr. HELMS. If the Senator will yield, with the further understanding that the acceptance of this amendment is an indication that this Senate means business about the recordkeeping and the supplying of information to the Government on this question.

Mr. McGOVERN. The Senator's point is well taken.

Mr. DOLE. Will the Senator yield for one moment?

Mr. THURMOND. I yield.

Mr. DOLE. Mr. President, I join with my colleages, the Senator from North Carolina, the Senator from South Carolina, and the Senator from South Dakota. It does seem to me that with this emphasis that we are providing, and I hope the Department of Agriculture officials will note that we are making legislative history, that the substitute means what it says so far as assets are concerned and so far as the other provisions are concerned.

I believe that, in addition to the letter which will be sent by the distinguished Senator from North Carolina and the distinguished Senator from South Dakota, will give us a clear picture on what may really be happening.

I go back to the same argument made at the outset. It is not that we want to deprive those in need of food stamps. It contradicts the present law which says you have to at least be working or applying for work. That is the present law and it is in the substitute offered by the distinguished Senator from South Dakota.

I believe that if we can have some focus on the comments made on the floor, the present law, as restated in the substitute, would be a step in the right direction.

I commend the distinguished Senators for working out the compromise.

Mr. THURMOND. Mr. President, in view of the colloquy which has taken place and the assurances which have been given, I am willing to accept the amendment of the Senator from South Dakota.

Mr. HELMS. Perhaps the Senator wants to vitiate the request for the yeas and nays.

Mr. McGOVERN. Mr. President, in view of what I determine to be the unanimity on this, I ask unanimous consent that the order for the yeas and nays be vitiated on the substitute amendment.

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

Mr. McGOVERN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGOVERN. Mr. President, I believe we are nearing the end of the consideration of this bill.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from South Carolina, as amended by the Senator from South Dakota.

Mr. HELMS. Mr. President, I believe the Senator from South Carolina wants to vitiate the yeas and nays on his amendment.

Mr. THURMOND. Mr. President, I ask unanimous consent to vitiate the order for the yeas and nays on my amendment, as amended.

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

The question is on agreeing to the amendment of the Senator from South Carolina, as amended.

The amendment, as amended, was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VERIFICATION STANDARDS

Mr. HELMS. Mr. President, regarding the amendment that permits States to adopt additional verification standards and precludes the Secretary from prohibiting the States from doing so, I am very pleased that Senator McGOVERN has articulated a point that should not be misunderstood—home visits should be made during reasonable hours. Reasonableness is certainly the standard by which hours of home visits or anything else should be judged. Senator McGOVERN suggested that office hours would be a good rule to use as a guide in determining what times are reasonable. That standard is indeed a good guide, so long as it is not adhered to strictly.

I concur in using office hours as a guide, but feel obligated to elaborate upon this standard so that it may not be misunderstood. The context of the debate when Senator McGOVERN spoke was that of administrative procedures within the food stamp program. We all realize that office hours include that period of time during which food stamp offices sometimes are open. Most notably this would include the evening hours during which local custom and practice dictate that social visits are reasonable. Surely no one could better judge local custom and practice than State administrators, which is precisely why discretion is given to the States in this matter.

UP AMENDMENT NO. 444

(Purpose: To require implementing regulations to be issued within 150 days after enactment of the bill)

Mr. HELMS. Mr. President, I send an unprinted amendment 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 North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 444.

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 11, after line 7, insert a new subsection (c) as follows:

(c) Notwithstanding any other provision of law, the Secertary of Agriculture shall issue final regulations implementing the provisions of sections 4 through 8 of this Act within one hundred and fifty days after the date of enactment of this Act.

Mr. HELMS. Mr. President, inasmuch as any delay in the implementation of the provisions of this bill which address the administrative changes is not desirable, I offer an amendment to require that the Food and Nutrition Service issue final regulations within 150 days of the enactment of this legislation.

Senators may well recall that it took the Food and Nutrition Service almost 2 years to begin implementation of the features of the 1977 Food Stamp Act—a process which is not yet complete.

So that the Food and Nutrition Service may receive some indication of the Senate's intention that the Helms amendments be implemented in a timely fashion, my amendment requires just that.

It is my understanding that Mr. Robert Greenstein, the Administrator of the Food and Nutrition Service, has no objections to this amendment, and believes the time is sufficient to allow his agency to issue regulations for comment, allow 60 days for such comment, and almost 3 months for final drafting and implementation. This amendment is not intended to waive the right of any person to offer additional comment after the 60-day period under the rules and procedures established for such actions.

And, it should be noted that the other provisions of the legislation now under consideration have a time certain for implementation.

Mr. McGOVERN. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER (Mr. LEAHY). The question is on agreeing to the amendment of the Senator from North Carolina.

Without objection, the amendment is agreed to.

UP AMENDMENT NO. 445

(Purpose: To assure that any supplemental verification proposed by a State agency shall be reasonable and constitutional)

Mr. JAVITS. Mr. President, I send an amendment to the desk for myself, Senator KENNEDY, and Senator BAYH, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself, Senator KENNEDY, and Senator BAYH, proposes an unprinted amendment numbered 445.

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:

On page 8, line 25, strike out "a new sentence" and insert, in lieu thereof, "three new sentences".

On page 9, line 3, insert after the first period two new sentences as follows:

"Supplemental verification standards proposed by any State agency shall be set forth in the State's plan of operation and be reasonably related to the Secretary's national verification standards. In addition, supplemental verification standards proposed by any State agency shall not: result in a violation of the standards for the timely provision of benefits established by the Secretary under paragraphs (2) through (4) and (9) of section 11(e) of this Act; subject households to home visits by State agency personnel in an unreasonable manner or during unreasonable hours; be implemented for persons whose eligibility for Federal or State public assistance benefits have already been, or will concurrently be, verified; result in a denial or reduction of benefits if a household cannot verify matters that are outside of its control to verify; or require applicant households to make unreasonable additional trips to the State agency's offices."

Mr. JAVITS. Mr. President, this amendment deals with section 7 of the substitute bill which appears at page 8, line 24, and deals with the authority which is given to the States to adopt verification standards which supplement the verification standards issued by the Secretary under the act.

The thing that concerns me and my cosponsors is whether or not, in promulgating regulations themselves for verification, there would be imposition upon those who are being verified. We have had experience with such matters, before and it became literally a case of horror stories where families were subjected to midnight raids and other abuses when their assistance applications were verified, when this thing was done on a State level.

I was confident that Senator HELMS no more than I wanted any such thing to occur. So we have agreed upon certain limitation in respect of such standards as the States set.

I think if I just read this to the Senate it will be adequate to show what we are doing:

Supplemental verification standards proposed by any State agency shall be set forth in the State's plan of operation, and be reasonably related to the Secretary's national verification standards. In addition, supplemental verification standards proposed by any State agency shall not: result in a violation of the standards for the timely provision of benefits established by the Secretary under paragraph (2) through (4) and (9) of section 11(e) of this Act; subject households to home visits by State agency personnel in an unreasonable manner or during unreasonable hours; be implemented for persons whose eligibility for Federal or State public assistance benefits have already been, or will concurrently be, verified; result in a denial or reduction of benefits if a household cannot verify matters that are outside of its control to verify; or require applicant households to make unreasonable additional trips to the State agency's offices.

Mr. President, this amendment is satisfactory to myself and my cosponsors, and I hope it may prove acceptable to the managers.

Mr. President, as I said, the amendment that I am offering to the substitute bill is intended to safeguard the basic rights of applicants to the food stamp program. It seeks to balance our important interest in preventing program abuse with the need to protect poor people's basic rights when they apply for food stamp aid.

Under the substitute bill, we authorize the States—for the first time since the revamping of the food stamp program in 1971—to undertake verification that supplements the verification requirements established by the Secretary of Agriculture. The clear purpose behind this provision is to reduce program errors and to minimize potential program abuse.

As important as it is for us to give such additional verification tools to the States, it is also important that we insure that those tools do not become a blanket license to deprive needy people of their basic rights. Nobody in this Chamber should want us to go back to the unfortunate times when public assistance recipients, in some localities, were subjected to midnight raids and other abuses when their assistance applications were being verified.

My amendment seeks to guarantee poor people's basic rights when States undertake supplemental verification procedures. In essence, these protections are intended to guard against overly-zealous bureaucrats who might unjustifiably seek to run roughshod over the rights of the poor. Neither the sponsors of the substitute nor the sponsors of the supplemental verification amendment should be willing to tolerate such bureaucratic abuse. To make sure that such abuse does not occur, however, it is prudent for us to set forth in the bill the fundamental rights that States should not abridge.

My amendment requires States to do two things in connection with their own verification procedures that are supplemental to the Secretary's. First, such supplemental verification standards must be specifically set forth in the State's plan of operation. Moreover, as the Secretary does with all facets of State plans of operations, he would review this portion of the plan to insure that it is approvable and does not violate the statute or the supporting regulations.

Second, the State must make sure that its supplemental verification standards are reasonably related to the Secretary's verification standards. In effect, this provision is intended to prevent States from establishing unreasonable verification requirements that violate any portion of the Food Stamp Act and regulations or that contradict—rather than supplement—USDA's verification procedures.

Finally, my amendment specifically prohibits several agency abuses that would nullify fundamental rights of indigent food stamp applicants. The amendment guarantees that the timeliness standards, for the provision of benefits to applicants, shall not be abridged as a result of the States' supplemental verification procedures. Hence, neither emergency nor regular applicants will receive assistance later than the times specified by the USDA regulations as a result of a State's supplemental verification requirements.

Additionally, no State will be allowed to make home searches in an unreasonable manner or during unreasonable hours—thereby avoiding the infamous midnight raids that I mentioned earlier.

Similarly, the supplemental verification requirements shall not harass households by forcing them to take additional—and frequently expensive and time-consuming—trips to the food stamp office if this is avoidable. Except under extraordinary circumstances, supplemental verification efforts should not require applicants to make additional trips to the food stamp office if this is avoidable.

To prevent repetitious governmental

intrusions into people's lives as well as unnecessary redtape, the supplemental verification standards shall not be applicable to any household whose eligibility for Federal or State public assistance has been, or is being, verified. Since these people are already obligated to fulfill certain verification requirements when they apply for AFDC, SSI, and general relief, there is no reason to subject them to duplicative and unnecessary supplemental verification requirements in the food stamp program.

Finally, my amendment prohibits States from disqualifying applicants for failing to verify matters that are outside of their control to verify. If, for example, an uncooperative employer failed to provide supplemental verification about an employee's income—either out of disdain for the food stamp program or laziness or recalcitrance—the employee-applicant should not be penalized. As long as the applicant cooperates with local administrators and appears to be eligible for assistance, no State agency should withhold food stamp aid.

I believe that this amendment achieves a delicate balance between the desire for additional verification and the need to safeguard fundamental rights. I, therefore, urge my colleagues to adopt it and to pass the substitute bill as modified.

● Mr. KENNEDY. Mr. President, I am pleased to cosponsor with Senator JAVITS, this amendment that seeks to protect the rights of needy people in the food stamp program. The provision authorizing States to establish supplemental verification procedures beyond USDA's verification requirements may be very helpful to insure the integrity of the program. This amendment, in turn, is designed to guarantee that this State authority is not implemented to curtail poor people's basic rights.

Our amendment prohibits States from harassing people to discourage them from applying for health-vital food stamp aid. For example, it prohibits States from undertaking home verification checks during unreasonable hours or in an unreasonable manner. It prohibits States from instituting additional verification procedures that require applicants or recipients to make repeated trips to the food stamp office. Under our amendment, a household could not be required to make additional trips to the food stamp office—which are frequently expensive, particularly in rural areas, and very time consuming—beyond the times necessary to achieve verification under USDA's regulations.

The supplemental verification authority, according to our amendment, could not be used to delay the provision of food stamp relief beyond the time periods specified in the Food Stamp Act and USDA's regulations. Those time periods were designed to insure that people would not go hungry for an undue period of time. No State would be allowed to implement its new verification authority in a manner that could violate those timeliness requirements.

To make sure that the State's supplemental verification procedures do not subject people to unnecessarily repetitive governmental intrusion, our amendment prohibits States from implementing this supplemental verification authority for applicants and recipients of other public assistance programs. Such persons are already required to satisfy various verification requirements whenever they apply for AFDC, SSI, or home relief. Consequently, it would not be useful, and would be unproductive harassing, to subject such individuals to supplemental verification procedures.

The amendment also prohibits States from denying food stamp aid as a result of a failure to verify something that is outside of the control of an applicant to verify. As an illustration of the operation of this provision, we frequently hear allegations that employers of migrant laborers refuse to provide check stubs or other evidence of an employee's wage status. Certainly it would be a gross injustice to deny aid to a migrant laborer and his family in such circumstances. We, therefore, prohibit States from denying food stamp relief when this occurs. Poor people should not be denied aid solely as a result of their inability to produce verification that is outside of their control.

To insure that the supplemental verification procedures are implemented properly, our amendment requires States to take certain steps before such supplemental verification procedures may be implemented. First, the supplemental verification procedures must be set forth in writing and submitted to USDA as part of the plan of operation. As such, USDA will have oversight approval of the procedures to guarantee that they are in conformity with the Food Stamp Act and regulations. This part of the annual plan of operation, like others, shall be subject to the oversight approval of USDA.

Second, the supplemental verification requirements must be of statewide applicability. This will insure statewide uniformity and will prevent State or local officials from implementing selective verification procedures out of an anti-urban or anti-minority bias. It means that State officials will have the responsibility for determining which, if any, supplemental verification standards are to be proposed.

Third, the supplemental verification requirements must be reasonably related to the Agriculture Secretary's nationwide verification procedures. As a result, these supplemental verification and other programmatic requirements established by legislation or regulations. This condition seeks to guarantee that the new authority granted to the States is not used to make a nullity of any portion of the Food Stamp Act or regulations.

Fourth, and finally, each State that wishes to implement supplemental verification requirements must first inform all program applicants, in writing, about those verification procedures. This will give people information that they otherwise would not have access to in the normal course of events. It will inform applicants and recipients of their supplemental rights and responsibilities—rights and responsibilities that they would not find in USDA's nationwide regulations.

As a result of this amendment, States will be enabled to undertake helpful supplemental verification procedures but will do so in a manner that comports with poor people's basic rights. I believe that this amendment should have the support of all of my colleagues, and I urge its adoption.●

Mr. McGOVERN. Mr. President, the Senator from New York did speak to me about this amendment earlier today, and I have looked it over very carefully. Also, I discussed it with Senator HELMS and others, and I think the language the Senator from New York is offering is perfectly acceptable and does address some of the concerns that he is worried about. I have no objection to accepting the language of the Senator's amendment.

Mr. HELMS. Mr. President, I find the amendment acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table, Mr. President.

The motion to lay on the table was agreed to.

Mr. McGOVERN. Mr. President, I ask unanimous consent that Melissa Bristow of Senator ZORINSKY's office may have the privilege of the floor during consideration of this measure.

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

UP AMENDMENT NO. 446

Mr. McGOVERN. Mr. President, on behalf of Senator STONE, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Dakota (Mr. McGOVERN) for the Senator from Florida (Mr. STONE) proposes an unprinted amendment numbered 446.

Mr. McGOVERN. 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 4, line 19, insert after "Act" the following: "or disability payments under title II of the Social Security Act".

On page 4, line 24, insert after "Act" the following: "or disability payments under title II of the Social Security Act".

On page 4, line 15, strike out "forth" and insert "fourth" in lieu thereof.

On page 7, line 4, strike out "6" and insert "16" in lieu thereof.

On page 10, line 17, strike out "arrangements" and insert "arrangement" in lieu thereof.

Mr. McGOVERN. Mr. President, this amendment would make a technical change in the provisions allowing the elderly and disabled to claim excess medical expense deductions and uncapped shelter expense deductions. It would allow recipients of Social Security Act dis-

ability payments, under title II of the act, to claim excess medical expense deductions and uncapped shelter expense deductions. My amendment is consistent with the spirit of the committee's provisions. Disabled people who receive title II disability payments must pass the same disability test that supplemental security income recipients pass and it is only fair that they, like SSI recipients, be allowed to claim these deductions. They have the same high medical expenses and should not be discriminated against simply because they receive their disability benefits under a different title of the Social Security Act.

Mr. President, it is my understanding that Senator STONE has cleared this amendment with the other side of the aisle, but I yield to Senator HELMS.

Mr. HELMS. That is correct, Mr. President.

Mr. McGOVERN. Mr. President, under those circumstances, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

● Mr. STONE. Mr. President, I would like to add my comments on S. 1309, a bill which includes amendments to help the elderly and disabled food stamp recipients.

Earlier this summer I chaired a field hearing of the Senate Agriculture Subcommittee on Nutrition in Miami Beach, Fla. As a result of that field hearing, I returned to Washington and introduced S. 1346, which the Agriculture Committee added as an amendment to S. 1309 on June 20. It became abundantly clear to me at the field hearing that elderly and disabled food stamp recipients in all parts of the country are suffering under the newly implemented food stamp program. The provisions of S. 1309 that are directed to relieve the elderly and disabled will insure a measure of relief for those most in need.

Elderly and disabled food stamp recipients in the United States today are facing a crisis situation. It is disastrous when the elderly and disabled recipients must make a daily decision between medicine or food. When elderly people have to survive on a few slices of bread, when these same people run out of food stamps by the third week of the month, and when elderly people are arrested for stealing needed food, it is a sad state of affairs in our Nation. These are not hypothetical examples that I mention, these are the situations that real people are currently confronted with. These intolerable situations must be remedied and they must be remedied now.

I am well aware of the need of fiscal responsibility that is sweeping the country. As my colleagues know, I am a charter member of the SOB's (Save Our Bucks). However, fiscal responsibility should not be equated with insensitivity to human suffering or need. The portion of the bill that deals directly with the elderly and disabled food stamps recipients is a modest proposal, and its cost is less than 1 percent of the cost of the entire food stamp program. This small expenditure will reap relief for those people who are least able to cope with the increasing demands on their ever-shrinking dollars.

I am hopeful that all of my distinguished colleagues will support quick passage of S. 1309, and its much needed amendments.

Thank you, Mr. President.●

Mr. THURMOND. Mr. President, I rise in opposition to S. 1309, legislation to increase the fiscal year 1979 authorization for appropriations for the food stamp program. This measure, if approved by the Senate today, would provide a $620 million increase in the ceiling for the food stamp program, which would bring the fiscal year 1979 cost level up to $6.8 billion.

This is a perfect example of a Federal program which has grown far beyond the original intention of Congress. In 1965, only 1 person in 440 received food stamps. Today 1 in 12 receive them. That is an astronomical growth rate when one considers our initial outlay for the program 14 years ago was a mere $60 million.

I fully recognize the importance of food stamps to the many economically disadvantaged, but Mr. President, things have gone too far. There are too many undeserving recipients, too many cases of fraud and abuse, and too many instances of mismanagement in the program. I think it is time for Congress to stop bailing out Federal agencies which act in wanton disregard of the bugetary process and sound fiscal management.

Mr. President, much reform is needed in the food stamp program to tighten eligibility requirements and eliminate fraud and abuse. Until such reforms are put into place, I cannot support an increase in the program. Therefore, I urge my colleagues to join me in opposition to S. 1309.

Mr. HELMS. Mr. President, this bill includes some very worthwhile program improvements that were adopted in committee. Senator LUGAR's amendment to the bill protects the truly needy in the event of benefit reductions. Also, it makes clear Congress intention of tolerating no more contortions on the part of the Food and Nutrition Service in order to delay benefit reductions until the point of crisis is reached, as Assistant Secretary Foreman and FNS officials did this year. Senator TALMADGE's amendment changed the program so that unused budget authority would revert at the end of each fiscal year.

Though I have some reservations because the food stamp program is probably not the proper vehicle for such a provision, I am pleased to note that relief for the high medical costs of our Nation's elderly is provided in this bill in the form of the STONE amendment. Of course, I am pleased that the four antifraud amendments that I had intended to move were adopted. So, it is clear that the Senate has produced a bill that has some provisions which should rightfully cause us pride. I certainly understand why many of my colleagues will vote for this bill.

However, I cannot vote for S. 1309. It authorizes the expenditure of funds that would not have been needed had it not been for the inept administration of the program. Secretary Foreman and food and nutrition officials have consistently disregarded fiscal responsibility in administering this program. Their decision to ignore congressional intent by eliminating the purchase requirement months before implementing participation-restricting provisions of the 1977 act—that is, not implementing those features simultaneously—cost in excess of $275 million, according to the Congressional Budget Office.

Then, there is the vast array of Federal regulations that State food stamp administrators have testified make it impossible for them to manage their programs well in a fiscally responsible fashion. Though the Senate addressed this problem today, we cannot realistically claim to have solved all the problems that exist throughout the program's regulations.

Finally, this bill takes away an important congressional budgetary control, the cap. That issue was thoroughly debated today and the Senate's decision to remove that control has been made. For that reason, more than any other, I cannot vote for this bill. In my view, a vote in favor of S. 1309 with the McGovern/Dole amendment eliminating the cap for 1980 and 1981 is not consistent with fiscal responsibility.

RESTORING FOOD STAMP BENEFITS FOR MANY SENIOR CITIZENS

● Mr. CULVER. Mr. President, I wish to voice my support for this legislation to increase the fiscal year 1979 authorization for the food stamp program, without which millions of poor and elderly people would suffer significantly reduced food stamp benefits. But I would like to express particular support for those provisions in this bill which will restore food stamp benefits to many senior citizens whose food stamps were either eliminated or reduced earlier this year.

When Congress enacted the Food Stamp Act of 1977, it changed the income eligibility requirements, including a major curtailment in the income deduction for shelter expenses and the elimination of the separate medical expense deduction. Unfortunately, the severe impact these revised income guidelines would have on senior citizens was not foreseen.

Prior to the 1977 food stamp revisions, shelter expenses which exceeded 30 percent of a participating household's income could be fully deducted from that income. And the amount of actual medical costs beyond $10 a month could be directly deducted. These deductions enabled people with high shelter or medical costs to participate in the food stamp program.

However, the 1977 Food Stamp Act, with provisions that became effective March 1, 1979, eliminated the separate

medical deduction by incorporating it into a standard deduction. It also significantly reduced the shelter expenses deduction by allowing deductions only for those costs exceeding 50 percent—rather than 30 percent—but only up to a ceiling of $90 per month—rather than no ceiling whatsoever. These curtailments have had the effect of reducing or terminating the food stamp allotments for many senior citizens who have borne heavy medical or shelter costs.

The provisions in this legislation would remedy most of these hardship situations by implementing two revisions in shelter and medical deductions for households containing an elderly person or SSI recipient. While the shelter deduction will continue to apply only to expenses over 50 percent of income, for the qualifying households there will be no ceiling imposed on the amount of the deduction. And, in addition to the standard deduction, these households could deduct the senior citizen's medical expenses in excess of $35 a month.

The elimination of a separate medical expense deduction has worked particular hardship on older Americans. Senior citizens' direct medical costs are actually some three times greater than those of younger people, despite medicare coverage. In 1977, according to figures compiled by the Social Security Administration, the average person aged 65 or older paid $463 directly out of their pocket, while the average person under age 65 paid $164 out of pocket. In 1977, medicare actually covered only 41 percent of the total health care expenditures of the elderly, often leaving them saddled with prohibitive medical bills.

The introduction of a ceiling on the amount of excess shelter costs which may be deducted from income has also hurt many low-income elderly, particularly given the spiraling utility costs we have been experiencing. Utility bills alone commonly amount to 20 or 30 percent of senior citizens' income, and that does not even consider the cost of rent or mortgage payments and property taxes. In the wintertime, the elderly's heating bills often consume over half their monthly social security check or other benefits.

Mr. President, I have received several dozen letters from elderly Iowans whose food stamps were cut or eliminated this past March, and who despaired about continuing to make financial ends meet. Many of these people are having to make the tragic choice between food and medical care, or food and heat. It is clear that the curtailment of the shelter deduction and the elimination of the medical deduction has had an unfair and disproportionate effect on our senior citizens. The much-needed changes in the legislation we are considering today will restore the lost or reduced food stamps to most of these deserving people, and I hope they can be properly enacted into law.●

Mr. LEAHY. Mr. President, I would like to voice my support for the bill, S. 1309, to raise the authorization level for fiscal year 1979. Without the infusion of the $620 million, the food stamp program will face drastic cutbacks and its participants will suffer severe reductions in their already reduced monthly benefits.

The distinguished chairman of the Senate Agriculture, Nutrition, and Forestry Committee, Mr. TALMADGE, described this bill as emergency legislation when he introduced it. I could not agree with him more. Since we eliminated the purchase requirement for food stamps in the 1977 Food Stamp Act, the program has swelled with participants. Program participation has increased from 16.1 million people in 1978 to over 19 million people by March of this year. More than 1 million people joined the program in February alone. The people participating in the food stamp program, primarily as a result of the purchase requirement elimination, are some of the poorest and the neediest in the Nation.

The dramatic increase in participation has put a strain on the administrative budget. Adding to these costs are the spiraling costs of food and the rising rate of inflation. Food costs were projected to rise 3 to 4 percent per year. The ceiling for annual authorizations was based upon those projections. However, food prices are now projected to increase an astronomical 22 percent over this year alone, with the prospect of a 30 to 40 percent increase by 1982. The food stamp allotments have had to be indexed to these higher than normal costs, but the program and its participants are faced with serious problems if we do not act now.

The emergency is even more imminent for our senior citizens and the handicapped. In an effort to streamline and simplify the food stamp program, the Food Stamp Act of 1977 eliminated the personal, itemized deductions for medical and shelter expenses in favor of a national, standard deduction. Unfortunately, the effect of the reforms enacted in the 1977 act has been to severely reduce the monthly benefits of the elderly and the supplemental security recipients. The reforms have failed to cover the excessive heatings costs Vermonters and others from severe climates must pay and also ignored the substantial medical expenses of many elderly participants.

My office in Vermont has been deluged with phone calls and letters from elderly and disabled Vermonters. Some of these people have had their monthly benefits cut to $10 a month. They must now decide to spend what little money they do have on either food or heating fuel, a choice I find unconscionable.

The bill before us will partially rectify this situation. It will provide for itemized deductions for the elderly and handicapped for their out of pocket medical expenses that exceed $35 a month and for their shelter costs that consume more than one-half their monthly income. The additional benefits that the elderly participants will receive will act as a buffer against the harsh effects of inflation.

Mr. President, when the Senate Agriculture Committee held hearings on S. 1309 last month, several of my colleagues on the committee expressed concerns about alleged fraud and abuse of the food stamp program. Their concerns may be very real. Certainly this program has had its abusers, the people who take advantage of the aid and do not really deserve it, but they are relatively few. The administration has proposed legislation to correct some administrative difficulties and to provide for tighter program oversight. Several of these proposals are contained in amendments to S. 1309 which Senator HELMS has offered. They are also incorporated within the substitute offered by Senator MCGOVERN with Senators DOLE, MAGNUSON, and EAGLETON. The substitute bill, which I support and which I urge my colleagues to support, will permit the States to require more information of program participants to insure that the applicants are actually eligible for the aid. It will also require that participants who obtain benefits fraudulently must repay the State and the State will be permitted to retain half of the value of the benefits recovered.

The McGovern substitute also contains two other important provisions. The bill will extend to handicapped residents of group homes the same consideration that residents of drug and alcoholic rehabilitation centers now enjoy. This addition, proposed by my distinguished colleague, the senior Senator from Vermont, Mr. STAFFORD, is an excellent one. It will provide that disabled and blind group home residents are treated as individuals for the purpose of receiving food stamp benefits.

The other provision repeals the authorization ceilings for fiscal years 1980 and 1981. This question, already the subject of a record vote, is essential if we are to avoid the funding problems encountered this year. I want to reiterate what Senator MCGOVERN has already stated. This provision will not remove the food stamp program beyond the control and oversight of Congress. It will not mean unlimited funding for the program. Congress will still determine the level of program spending. By repealing the ceilings, however, the program will be able to adjust to the rapidly fluctuating costs of food, changes in participation rates, and administrative costs.

Mr. President, I would like to add these thoughts in closing. The food stamp program has proven its ability to bolster the meager food buying power of our Nation's needy, particularly when so many Federal efforts to help the low income, the elderly and the disabled have failed. The food stamp program has been especially helpful in supplementing the incomes of Vermont's senior citizens who, with their limited incomes, must also cope with our harsh winters and expensive housing. By approving the substitute bill we in the Congress will insure that the program has sufficient funds to continue functioning and that the needy, our senior citizens and handicapped, will receive their needed monthly food benefits.

Finally, Mr. President, I noted that we are dealing with an emergency situation. It will be an emergency this September if we do not pass a bill lifting the authorization ceiling. It will be an emergency this winter if we do not pass a bill providing shelter cost deductions for the elderly. The House overwhelmingly approved a bill similar to S. 1309 and Senate action is imminent. Mr. President, the emergency nature of the elderly provisions will be lost if the Admin-

istration fails to act with utmost haste. Our calling these provisions an emergency will be a sham if, as directed by the House, the Department of Agriculture waits until next January to implement the elderly deductions. The effective date of the Senate bill is the first day of the first month after the date of enactment. We must adhere to this provision if this bill is to be, in reality, emergency legislation.

The PRESIDING OFFICER. Are there further amendments?

Mr. McGOVERN. Mr. President, I am not aware of any further amendments on the legislation. I ask for the yeas and nays on the substitute amendment, as amended.

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

The yeas and nays were ordered.

Mr. McGOVERN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute as amended. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Montana (Mr. BAUCUS) is absent on official business.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber still wishing to vote?

The result was announced—yeas 75, nays 20, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—75

Baker	Ford	Morgan
Bayh	Glenn	Moynihan
Bentsen	Gravel	Muskie
Biden	Hart	Nelson
Boren	Hatfield	Nunn
Boschwitz	Heflin	Packwood
Bradley	Heinz	Pell
Bumpers	Hollings	Percy
Burdick	Huddleston	Pryor
Byrd, Robert C.	Jackson	Randolph
Cannon	Javits	Ribicoff
Chafee	Jepsen	Riegle
Chiles	Johnston	Sarbanes
Church	Kassebaum	Sasser
Cochran	Kennedy	Schmitt
Cohen	Leahy	Stafford
Cranston	Levin	Stevens
Culver	Long	Stevenson
Danforth	Lugar	Stewart
DeConcini	Magnuson	Stone
Dole	Mathias	Talmadge
Durenberger	Matsunaga	Tsongas
Durkin	McGovern	Wallop
Eagleton	Melcher	Weicker
Exon	Metzenbaum	Williams

NAYS—20

Armstrong	Hatch	Schweiker
Bellmon	Hayakawa	Simpson
Byrd, Harry F., Jr.	Helms	Thurmond
Domenici	Humphrey	Tower
Garn	McClure	Warner
Goldwater	Proxmire	Young
	Roth	Zorinsky

NOT VOTING—5

Baucus	Laxalt	Stennis
Inouye	Pressler	

So the amendment in the nature of a substitute (362), as amended, was agreed to.

Mr. McGOVERN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. WALLOP. My brief remarks today concern three amendments to S. 1309, as introduced, which I strongly support and with which I wish to associate myself.

The first of these amendments was offered in committee by Senator STONE. My colleague from Florida has shown remarkable sensitivity to the elderly in this country who were severely impacted by the enactment of the Food Stamp Act of 1977. The 1977 amendments made changes in the excess shelter expense deduction and medical expense deduction available to all households participating in the food stamp program. These changes in the law resulted in substantial benefit reductions to the elderly and disabled, many of whom are faced with disproportionately high medical and shelter costs.

The dire predicament of the elderly resulting from the 1977 amendments, especially those who are ill, was vividly brought to my attention by a number of concerned citizens in my State. The administrator of the Division of Public Assistance and Social Services in Wyoming has expressed the need for legislative relief for senior citizens with catastrophic medical or pharmaceutical bills trying to live on fixed incomes. My State staff forwarded a tape of a social service hearing on the food stamp program. The transcript paints a bleak picture of elderly food stamp recipients who, as a result of the 1977 amendments, have found themselves in the position of having to choose between buying medicine, shelter, and food.

Mr. President, this is an unacceptable choice for our elderly population to have to make. The amendment offered by Senator STONE offers a way out of this situation. It will bring much needed and warranted relief to the elderly. I commend him for bringing before the Agriculture Committee an amendment to S. 1309 which will go a long way toward mitigating the very real hardship the 1977 amendments have worked upon the aged.

The second amendment with which I wish to be associated is one offered by Senators STAFFORD and DOLE and incorporated into the Magnuson-McGovern-Dole substitute to S. 1309 as section 9. The provision they have fashioned will bring welcome relief to developmentally disabled persons who live in group homes. Under current law, such people are ineligible for food stamps even if they would otherwise be eligible if living in private residences; they are disqualified solely because they reside in group living facilities. This provision of law has caused problems for many disabled people who receive public assistance—Federal, State, or local—and who have very little money left for food after paying for their care and treatment.

This particular problem was brought to my attention by a caseworker with RENEW, the Rehabilitation Enterprises of Northern Wyoming. I have since learned that residents of group homes for the developmentally disabled in Wyoming and throughout the Nation would welcome the relief that this provision will bring. I commend my colleagues from Vermont and Kansas for their commitment to improving the plight of some of our less fortunate citizens and support their efforts toward enactment of this change in the law.

Finally, Mr. President, I am a cosponsor of the amendment offered by my colleague from South Carolina, Mr. THURMOND, which would prohibit the distribution of food stamps to households where the head of the household is involved in a labor strike. An exception would, however, be made where the household was eligible for food stamps prior to the strike. This will reserve food stamps for those households which are truly needy and will insure that the Federal Government is not subsidizing strikes through the food stamp program. While I prefer the language in the amendment offered by Senator THURMOND to the substitute presented by Senator McGOVERN, I believe that the McGovern substitute will make some inroads into the intolerable situation of striking employees receiving food stamp benefits without seeking other employment.

Mr. McGOVERN. Mr. President, in view of the overwhelming vote for the substitute amendment which has just been adopted, I do not think it will be necessary to have a rollcall vote on final passage, so I move the adoption of S. 1309, as amended.

Mr. HELMS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator from North Carolina is correct in asking for order.

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

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 1309) was passed, as follows:

S. 1309

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

INCREASE IN 1979 AUTHORIZATION FOR APPROPRIATION; REPEAL OF AUTHORITY FOR CARRY-OVER OF APPROPRIATIONS; METHOD OF REDUCING ALLOTMENTS IF APPROPRIATIONS ARE INSUFFICIENT

SECTION 1. Section 18 of the Food Stamp Act of 1977 is amended by—

(1) striking out "$6,158,900,000" in the first sentence of subsection (a) and inserting in lieu thereof "$6,778,900,000";

(2) striking out the third sentence of subsection (a) and inserting in lieu thereof two new sentences as follows: "The Secretary shall, on the fifteenth day of each month, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture,

Nutrition, and Forestry of the Senate setting forth the Secretary's best estimate of the second preceding month's expenditure, including administrative costs, as well as the cumulative totals for the fiscal year. In each monthly report, the Secretary shall also state whether there is reason to believe that reductions in the value of allotments issued to households certified to participate in the food stamp program will be necessary under subsection (b) of this section.";

(3) striking out "If" in the second sentence of subsection (b) and inserting in lieu thereof "Notwithstanding any other provision of this Act, if"; and

(4) adding at the end thereof new subsections (c) and (d) as follows:

"(c) In prescribing the manner in which allotments will be reduced under subsection (b) of this section, the Secretary shall ensure that such reductions reflect, to the maximum extent practicable, the ratio of household income, determined under sections 5(d) and 5(e) of this Act, to the income standards of eligibility, for households of equal size, determined under section 5(c) of this Act. The Secretary may, in prescribing the manner in which allotments will be reduced, establish (1) special provisions applicable to persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise disabled, and (2) minimum allotments after any reductions are otherwise determined under this section.

"(d) Not later than sixty days after the issuance of a report under subsection (a) of this section in which the Secretary expresses the belief that reductions in the value of allotments to be issued to households certified to participate in the food stamp program will be necessary, the Secretary shall take the requisite action to reduce allotments in accordance with the requirements of this section. Not later than seven days after the Secretary takes any action to reduce allotments under this section, the Secretary shall furnish the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth (1) the basis of the Secretary's determination, (2) the manner in which the allotments will be reduced, and (3) the action that has been taken by the Secretary to reduce the allotments.".

EXCESS MEDICAL EXPENSE AND EXCESS SHELTER EXPENSE DEDUCTIONS FOR ELDERLY PERSONS AND PERSONS RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS

SEC. 2. Section 5(e) of the Food Stamp Act of 1977 is amended by—

(1) inserting in the fourth sentence after "Households" the following: ", other than those households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act or disability payments under title II of the Social Security Act,"; and

(2) adding at the end thereof a new sentence as follows: "Households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act or disability under title II of the Social Security Act shall also be entitled to—

"(A) an excess medical expense deduction for that portion of the actual cost of allowable medical expenses, incurred by household members who are sixty years of age or over or who receive supplemental security income benefits under title XVI of the Social Security Act, exclusive of special diets, that exceed $35 a month, which shall, starting July 1, 1979, be adjusted every July 1 and January 1 to the nearest $5 to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for items other than food for the six months ending the preceding March 31 and September 30, respectively;

"(B) a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expense deduction contained in clause (2) of the preceding sentence, for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education that is preparatory for employment; and

"(C) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deductions have been allowed.".

DEFINITION OF ALLOWABLE MEDICAL EXPENSES

SEC. 3. Section 3 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (q) as follows:

"(q) 'Allowable medical expenses' means expenditures for (1) medical and dental care, (2) hospitalization or nursing care (including hospitalization or nursing care of an individual who was a household member immediately prior to entering a hospital or nursing home), (3) prescription drugs when prescribed by a licensed practitioner authorized under State law and over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional, (4) health and hospitalization insurance policies (excluding the costs of health and accident or income maintenance policies), (5) medicare premiums related to coverage under title XVIII of the Social Security Act, (6) dentures, hearing aids, and prosthetics (including the costs of securing and maintaining a seeing eye dog), (7) eye glasses prescribed by a physician skilled in eye disease or by an optometrist, (8) reasonable costs of transportation necessary to secure medical treatment or services, and (9) maintaining an attendant, homemaker, home health aide, housekeeper, or child care services due to age, infirmity, or illness.".

PROVISION OF INFORMATION

SEC. 4. Section 16 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (f) as follows:

"(f) The Secretary and State agencies may require, obtain, and use social security account numbers assigned to members of households applying for or participating in the food stamp program under the same terms and conditions as the Secretary of Health, Education, and Welfare and State agencies under part A of title IV of the Social Security Act. The Secretary and State agencies shall also have access to data from other Federal programs for individual food stamp program applicants and participants who receive benefits under title XVI of the Social Security Act and may use such data under the same terms and conditions as the Secretary of Health, Education, and Welfare under title XVI of the Social Security Act.".

REPAYMENT FOR FRAUDULENT CONDUCT

SEC. 5. Section 6(b) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new sentence as follows: "After any specified period of disqualification pursuant to findings under clauses (1) and (2) of this subsection, no disqualified individual shall be eligible to participate in the food stamp program unless such individual agrees to (A) a reduction in the allotment of the household of which such individual is a member or (B) to repayment in cash, in accordance with a reasonable schedule as determined by the Secretary that will be sufficient over time to reimburse the Federal Government for the value of the coupons obtained through the fraudulent conduct. If any disqualified individual elects repayments in cash under the provisions of the preceding sentence and fails to make payments in accordance with the schedule determined by the Secretary, the household shall be subject to appropriate allotment reductions.".

STATE SHARE OF RECOVERIES

SEC. 6. Section 16(a) of the Food Stamp Act of 1977 is amended by inserting before the period at the end thereof the following: "as well as to permit each State to retain 50 per centum of the value of all funds or allotments recovered or collected through prosecutions or other State activities directed against individuals who fraudulently obtain allotments as determined in accordance with this Act. The officials responsible for making determinations of fraud under this Act shall not receive or benefit from revenues retained by the State under the provisions of this subsection".

ELIGIBILITY VERIFICATION

SEC. 7. Section 4(c) of the Food Stamp Act of 1977 is amended by adding at the end thereof three new sentences as follows: "The Secretary shall not preclude State agencies from adopting verification standards that supplement the verification standards issued by the Secretary under this Act. Supplemental verification standards proposed by any State agency shall be set forth in the State's plan of operation, and be reasonably related to the Secretary's national verification standards. In addition, supplemental verification standards proposed by any State agency shall not: result in a violation of the standards for the timely provision of benefits established by the Secretary under paragraphs (2) through (4) and (9) of section 11(e) of this Act; subject households to home visits by State agency personnel in an unreasonable manner or during unreasonable hours; be implemented for persons whose eligibility for Federal or State public assistance benefits have already been, or will concurrently be, verified; result in a denial or reduction of benefits if a household cannot verify matters that are outside of its control to verify; or require applicant households to make unreasonable additional trips to the State agency's offices.".

REMOVAL OF AUTHORIZATION FOR APPROPRIATIONS CEILING FOR 1980 AND 1981

SEC. 8. The first sentence of section 18(a) of the Food Stamp Act of 1977 is amended by striking out all after "1979" and inserting in lieu thereof the following: "; and such sums as may be necessary for the fiscal years ending September 30, 1980, and September 30, 1981.".

GROUP LIVING ARRANGEMENTS FOR THE DISABLED OR BLIND

SEC. 9. Section 3 of the Food Stamp Act of 1977 is amended by—

(1) striking out in subsection (g) "and (5)" and inserting in lieu thereof "(5), and (7)";

(2) striking out in subsection (g) "and (6)" and inserting in lieu thereof "(6)";

(3) inserting immediately before the period at the end of subsection (g) the following: ", and (7) in the case of disabled or blind recipients of benefits under title II or title XVI of the Social Security Act who are residents in a public or private nonprofit group living arrangement that is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act, which serves no more than sixteen residents, meals prepared and served under such arrangement";

(4) inserting in subsection (i) after "elderly" the following: ", disabled or blind recipients of benefits under title II or title XVI of the Social Security Act who are residents in a public or private nonprofit group living arrangement that is certified by the appropriate State agency or agencies

under regulations issued under section 1616(e) of the Social Security Act, which serves no more than sixteen residents,";

(5) inserting immediately before the period at the end of subsection (i) the following: "and shall be considered individual households"; and

(6) amending clause (2) of subsection (k) to read as follows: "(2) an establishment, organization, program, or group living arrangement referred to in subsections (g) (3), (4), (5), and (7) of this section,".

SEC. 10. Section 10 of the Food Stamp Act is amended by inserting after "programs" the following: "and public or private nonprofit group living arrangements that serve meals to disabled or blind residents".

DENIAL OF BENEFITS TO CERTAIN HOUSEHOLDS

SEC. 11. Section 6 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (i) as follows:

"(i) No household that contains a person involved in a labor-management dispute shall be eligible to participate in the food stamp program unless the household meets the income guidelines, asset requirements, and work registration requirements of this Act.".

EFFECTIVE DATE

SEC. 12. (a) The provisions of this Act shall take effect on the date of enactment, except that the provisions of sections 2 and 3 shall take effect on the first day of the first month that begins after the date of enactment.

(b) The provisions of sections 9 and 10 of this Act shall be implemented in all States by July 1, 1980, and shall not affect the rights or liabilities of the Secretary, States, and applicant or participating households, under the Food Stamp Act of 1977 in effect on July 1, 1979, until implemented.

(c) Notwithstanding any other provision of law, the Secretary of Agriculture shall issue final regulations implementing the provisions of sections 4 through 8 of this Act within one hundred and fifty days after the date of enactment of this Act.

Amend the title so as to read: "An Act to increase the fiscal year 1979 authorization for appropriations for the food stamp program, and for other purposes.".

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

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

The motion to lay on the table was agreed to.

The title was amended so as to read:

A bill to increase the fiscal year 1979 authorization for appropriations for the food stamp program, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, the managers of the food stamp reauthorization bill have done a very commendable job on this difficult piece of legislation.

The distinguished Senator from South Dakota, Mr. McGOVERN, has brought to bear on this problem his years of experience as chairman of the Select Committee on Nutrition, and more recently, the Nutrition Subcommittee of the Agriculture, Nutrition, and Forestry Committee. His expertise in the field of food policy is well known.

An equally fine job has been done by the ranking minority member on the Nutrition Subcommittee, Senator DOLE, and by the distinguished Republican floor manager, Senator HELMS.

A program as far reaching as this food stamp measure needs to be constantly monitored, and careful adjustments made to it as they become necessary. That is what the Senate has been doing today, as we pursue the goal of providing for our poorest citizens with a well-managed and efficient program. This bill will help us accomplish those ends in two ways.

First, the bill will give Congress the flexibility it needs to respond to unforeseen food price inflation. Without any ability to counteract rapid inflationary increases in the cost of food, the Department of Agriculture would have been forced to cut benefits far below minimum human needs.

Second, tough antifraud and abuse provisions in the bill will further strengthen the integrity of the food stamp program. While it has not always operated perfectly in the past, the program deserves our best efforts to improve it.

Once again, I commend the chairman and ranking member of the Nutrition Subcommittee for their efforts. I would also like to extend my appreciation to the distinguished chairman of the full Agriculture Committee, Senator TALMADGE, and the ranking member of the full committee, Senator HELMS, for their active participation in the matter.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4057, Calendar No. 257.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4057) to increase the fiscal year 1979 authorization for appropriations for the food stamp program.

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

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

Mr. McGOVERN. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that the language of S. 1309, as amended, be inserted in lieu thereof, and that the House bill be considered as having been read a third time and passed.

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

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

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

The motion to lay on the table was agreed to.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the title of H.R. 4057 be appropriately amended.

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

Mr. McGOVERN. Mr. President, I move that the Senate insist on its amendments and request a conference with 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 Chair appointed Mr. TALMADGE, Mr. McGOVERN, Mr. STONE, Mr. LEAHY, Mr. MELCHER, Mr. HELMS, Mr. HAYAKAWA, and Mr. LUGAR conferees on the part of the Senate.

Mr. McGOVERN. Mr. President, I will take just a minute to express the pleasure and the satisfaction I have experienced today in working with the distinguished minority comanager of the bill, the Senator from North Carolina (Mr. HELMS), the ranking minority member of the Committee on Agriculture, Nutrition and Forestry.

We sometimes have differing viewpoints and perspectives on the issues that was before us today, the question of the food stamp program, but I must say that he has been most cooperative at every stage of the consideration today in moving this measure ahead.

I think we can be very pleased and proud of the fact that the Senate has acted as expeditiously as it has on a very far-reaching and comprehensive program.

So I thank the Senator from North Carolina as well as the distinguished chairman of our committee, Senator TALMADGE, and Senator DOLE and others, who have played a key role in this legislation.

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

Mr. McGOVERN. I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, I thank my friend from South Dakota for his generous remarks. I assure him that it has been a great pleasure to work and cooperate with him, even if we differed on some aspects of this legislation. I thank him for his cooperation.

Mr. McGOVERN. I thank the Senator.

Mr. President, I also thank the members of the staff who have been very helpful in putting together this legislative package which passed the Senate by an overwhelming vote today.

Any time a multibillion dollar program clears the Senate with the overwhelming margin that this bill did today, it indicates very solid, careful, and imaginative staff work.

I pay special tribute to Marshall Matz, Carl Rose, Steve Storch, and Bill Lesher of the committee staff, and also Joe Richardson, of the Library of Congress, all of whom have been most helpful in the work on this legislation.

Mr. HELMS. Mr. President, I want to add two names, at least, to the list of staff members who have worked diligently on this matter: Mr. George Dunlop, who is the chief of staff of the minority, and Mr. John Bode. They have done an excellent job on this, and I am personally grateful to them.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to routine morning business for not to exceed 30 minutes and Senators may speak therein up to 5 minutes each.

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

PARALYSIS IN A RISK-FREE SOCIETY

Mr. STEVENS. Mr. President, in yesterday's Washington Post, an excellent article by Henry Fairlie appeared. Mr. Fairlie is a regular contributor to the Post's Sunday Outlook section and has an interesting viewpoint on American society. He is an Englishman who has spent a number of years in the United States. He is able to view our society from a more detached and objective standpoint than most of us are. I commend this article to the Senate and hope it will be read closely.

In the article, Mr. Fairlie points out that the driving goal of American society is to produce a "risk-free society." It is not enough that our technology be the most advanced in the world but it must be without error. Such a drive interferes daily with our lives and has tremendous implications when such a goal threatens to terminate vital functions in our society.

As an example, Mr. Fairlie points that the current "faddishness of environmentalism" has become rampant in America in a way unmatched by any other country. In his words:

> If some of the more extreme of the environmentalists had their way, there would have been no industrial revolution, no burst of industrial might in America at the last century, none of the brilliant inventiveness of its technology in the past generation—

Which has made America the great nation that it is today.

Mr. Fairlie goes on to say that with such an attitude—

> Millions of Americans would still be living the confined lives of the past and many more millions in Europe would be enduring existences of mere serfdom, their lives bound within the narrowest possible compass.

What Mr. Fairlie has stated is right on point. The current malaise facing this country is one of self-realization. We must realize that all our endeavors involve risks. The mere exercise of life is one of taking risks. These risks are part of the joy and celebration of life. It is high time that the country thinks about how best to overcome their risks instead of dwelling on the fear of the risk as if they are unconquerable.

Mr. President, I ask unanimous consent that the article, "Paralysis in a Risk-Free Society," be printed in the RECORD.

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

PARALYSIS IN A RISK-FREE SOCIETY

(By Henry Fairlie)

When the President spoke of the decline in America's confidence in its future—which all of its anxious but hoping allies regard as a real and ominous phenomenon—my mind fixed immediately on one of its most obvious but almost unmentionable causes. The once rambunctious American spirit of innovation and adventurousness is today being paralyzed by the desire to build a risk-free society.

No other great industrialized society has reacted with what can only be described as such palsy to the accident on Three Mile Island. It is simply beyond the bounds of credulity that the French would halt or reduce their huge nuclear power program—would forego their own chance to be "energy-secure"—in response to the kind of misadventure that is naturally to be expected in any humanly inspired endeavor.

Yet in his television address, the president of the United States did not dare to mention nuclear power, and on the following day he corrected the omission only in a muted and almost strangled voice.

No other country took it into its head to ground the DC-10s for as long as did the United States, and I hope that Sir Freddie Laker and the operators of other airlines will succeed in their suits for damages. After the remarkable record for efficiency and safety that has been set by the American aircraft industry in its fleets of planes which today carry the traffic of the world, one engine falls off one aircraft in circumstances that are unlikely ever to be repeated and the American authorities seem almost to set out to destroy the reputation of as trustworthy a commercial aircraft as is now flying.

But these are only the two most recent and glaring examples. The desire to build a risk-free society runs through the whole of American life today. It is draining the spirit from America's inventiveness and from its hope for the future.

If the American people for the first time no longer believe that life will be better for their children, it is at least in part because they are beginning to think that there will be no food which their children will be able to eat without dying like rats of cancer, no form of transport that will be considered safe enough to get them from here to there and in fact nothing that their children may safely do except sit like Narcissus by a river bank and gaze at their wan and delicate forms as they throw the last speck of granola to the fish.

The desire to build a risk-free society has always been a sign of decadence. It has meant that the nation has given up, that it no longer believes in its destiny, that it has ceased to aspire to greatness, and has retired from history to pet itself.

If many more safety regulations are introduced in the United States, it might as well have men with red flags walking in front of the automobiles. Ralph Nader seems sometimes to be interested in designing not motor cars but baby carriages, and even then the baby probably would be suffocated by air bags. He appears not to be aware that one of the main uses to which cars are put is necking, and that this is very difficult if the yearning couple are held back by a harness of seat belts that would hold down even a unbroken stallion.

In no other country is the faddishness of environmentalism so rampant as in America today. If some of the more extreme of the environmentalists had their way, there would have been no industrial revolution, no burst of industrial might in America at the end of the last century, none of the brilliant inventiveness of its technology in the past generation, and, as a result, millions of Americans would still be living the confined lives of the past, and many more millions in Europe would be enduring existences of mere serfdom, their lives bound within (as Marx put it) the narrowest possible compass.

There is a way in which much of my writing about America as an outsider has turned on these questions. For although I am often cheerfully bemused by the more fanciful and extravagant displays of American technology and gadgetry, and although I think that they are sometimes carried too far, so that people may soon use a Cusinart to scramble an egg before they cook it, I have no doubt that in important ways it is here that lies the genius of the country; for what it all says is that things "ain't necessarily so." Do not Americans now distrust their future because they are being told that the things (including nature) are necessarily so?

Zero population growth is the purest expression of the risk-free society. Preciously and exquisitely "I" am here; there are enough wild berries for "me" at least to live on; let no one else come and spoil it.

Back to Eden: For what was Eden but a garden of zero population growth; and indeed what was it but a risk-free society of two? But whenever I try to imagine the life of Adam and Eve, before their fall, it seems to me that it must have been one of infinite boredom.

But the more one thinks seriously of their boredom, the more one realizes why mankind had to escape into risk. Part of the malaise of the American spirit at the moment seems to me simply an expression of boredom. It hangs like a pall, worse than any pollution, over the lives of the people. There is no ship to board; it has been laid up as unseaworthy. There is no carriage to the stars; it might fall like Skylab. It is dangerous to dream; one might feed in one's sleep on a carcinogen. Feverishly and fretfully, the unused energy is spilled out, into the frenzy of white water and the disco.

I turn from the notion of a risk-free society to the epic of Homer, to the magnificent testimony to a people's will in the Old Testament, to the sagas of the Vikings and the daring of the Elizabethans, and there is not a hint of a safety regulation in one of them. But turn nearer to hand. It was not just the wretched and oppressed who came to America, but the wretched and the oppressed who would risk. It was the strong, and not the weak, who came, and then still came. They did not ask if the Mayflower was seaworthy—it was a miserable hulk even for its times—and into our own century they still got into tubs that might break apart to cross an ocean. What I feel most in America now is the ever more constricted sinews of a country that was made by such people.

Soft and swaddling are the constraints—do not do this because it might hurt you; even worse, it might make you feel "uncomfortable"—but they are binding the spirit of a great people like a fetter.

This draining pusillanimity runs into personal as well as into social relationships. The American people are being cajoled into talking to each other as I used to think that only a few people talked to their indoor plants. To ask a president to reach so deep into a malaise is to ask too much. What is "wrong" with America can be put quite simply. With a Ralph Nader at the head of a wagon train, no one would have made it across the plains, none would have crossed the Rockies and no immigrant would have pushed noisomely out of the gutter.

Risk-free? Living is sweat, danger and death. From those come the laughter. And curiously, from those comes also the ease of heart.

STATEMENT OF SENATOR TOWER ON SALT II BEFORE COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, the Senate Foreign Relations Committee has already conducted extensive hearings on the SALT II treaty, and today the Senate Armed Services Committee began its own deliberations on this most critical issue. It is essential that the consideration of the many facets of the

entire matter of present and future U.S. security be pursed in the context of certain specific criteria. One of the most precise elaborations on those criteria was contained in opening remarks before the Armed Services Committee by my colleague, Senator JOHN TOWER.

I, ask unanimous consent that the text of my colleague's remarks be printed in the RECORD.

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

OPENING STATEMENT OF SENATOR JOHN TOWER

Mr. Chairman, today, we begin consideration of the most important matter to come before the Senate during my tenure. The significance of these deliberations cannot be overstated for the outcome will determine the prospects for peace and the avoidance of nuclear war. The action taken by the Senate will have a determining influence on the course of U.S.-Soviet relations and will either enhance or inhibit the ability of the United States to exercise a position of leadership in world affairs for years to come.

No responsible human being can question the value—indeed, the imperative—of serious, balanced, equitable negotiations aimed at reducing the levels of nuclear armament. Still, it must be recorded that the history of arms control agreements reflects that too often the perceived gains have been ephemeral and have served to mask the determined pursuit of military advantage by our enemies. The risk inherent in any arms control negotiation is that agreement becomes a self-fulfilling objective. In recent years, the preoccupation with getting an arms control agreement as an end unto itself has undermined the vigorous pursuit of essential programs. Over the course of the past two years, we have witnessed the cancellation of the B-1 bomber, the closedown of the Minuteman production line, ambivalence on deployment of enhanced radiation warheads, delays in the Trident submarine program and the cruise missile program, and most importantly, the M-X missile program. This, in fact, is arms control—unilateral arms control—which has gained us no reciprocal reduction in Soviet arms and which has seriously eroded the foundation of our national defense. If there is no other lesson learned from this experience, let it be that unilateral restraint does not work.

The SALT II Treaty comes to us accompanied by conspicuous damage to our security—damage which I deeply believe derives from our zeal to get this agreement. The implications of this history are profoundly disturbing as a background to any future negotiations.

In the course of the next three months, the Senate must undertake a comprehensive analysis of this treaty. At the outset, I submit certain criteria which many thoughtful critics have established as a basis for evaluating the treaty and shaping decision on the proper course of action for its disposition.

EFFECT ON NATIONAL SECURITY

The first measure to be applied to the treaty must be:

Does it enhance or weaken our national security?

Does it enable us to implement a viable strategy designed to deter attack, and assure the flexibility essential to controlling crises and avoiding coercion?

Does it assure that the balance of forces that we have enjoyed over the past few years can be maintained during the life of the treaty and beyond?

Does it allow the unimpeded development of essential U.S. strategic systems?

These issues must and will be thoroughly explored during our hearings. However, I must say that on the basis of careful analysis of the treaty text, the unilateral entitlement to heavy missiles provided the Soviet Union, the acknowledged vulnerability of our own ICBM force commencing in 1982, the three-to-one imbalance it confirms in ICBM warheads (and greater imbalances in every other standard of measure), the exclusion of Soviet systems it allows and the unilateral restraint it imposes on the introduction of new cruise missile technology, the treaty appears to be grossly unequal and it may presage the emergence of Soviet nuclear superiority in the early 1980s.

SIGNIFICANCE AS A POLITICAL ACT WITHIN THE OVERALL CONTEXT OF U.S.-SOVIET RELATIONS

The next criterion to be applied deals with the significance of the treaty as a political act within the overall context of U.S.-Soviet relations. For the past ten years, arms control negotiations have been cast as the central element of the very broad-ranging efforts to achieve a relaxation of tensions between the United States and the Soviet Union. The fundamental premise which was to guide all of these efforts whether in trade, joint technical projects, or political dealings with third countries, was reciprocity. It was mutually agreed that efforts to gain unilateral advantage were inappropriate and would undermine any ultimate possibility of trust and lessened tension. While modest progress was made in the early years, as expressed for example in the conclusion of the Quadripartite Agreement on Berlin, Soviet activities in recent years represent a serious departure from the principle of reciprocity.

Since 1976, we have witnessed an accelerating pace of Soviet efforts to achieve unilateral benefit, notably in such areas as Southern Africa, Ethiopia, Yemen, and Southeast Asia. Further, their efforts to undermine the recent Camp David accords leading to Middle East settlement expressed anything but sincerity in trying to reduce tensions.

Concurrently, the Soviets have carried out a furious pace of military modernization and improvement—an effort which in no way reciprocated the U.S. expressions of restraint already cited. In sum, the principle of reciprocity has been cast aside. And so, against this history of unrelieved Soviet efforts to gain unilateral advantage, I believe we must seriously consider the significance of SALT II as a political act. Is the treaty equal and does it provide balanced reciprocal benefits to both sides?

In the end, the Senate will be sending a signal to the Soviet Union regarding the direction we wish our relations to follow. By our action, we will either ratify the trends so evident in recent years or signal a vigorous intention to return to strict reciprocity. Simple ratification of a treaty which confirms Soviet nuclear superiority would provide an expression of encouragement and approval of Soviet behavior and destroy any prospect of restoring the original basis of detente.

SALT AS ARMS CONTROL

The next measure to be applied to the treaty concerns its effectiveness as an arms control measure.

Does the treaty provide meaningful limits to the growth of nuclear arms?

Does it limit the right things?

Does it assure adequate verification as a basis for confidence on both sides?

Finally, does it establish an acceptable basis for the negotiation of SALT III?

Again, these issues will be explored, but based upon the enormous growth of warheads and destructive potential allowed by the treaty, its failure to limit missiles and throwweight, its failure to meet a reasonable standard of verification, and the precedential impact of a Protocol as it relates to SALT III render hardly credible any assertion that this is meaningful arms control.

IMPACT ON ALLIES

The next criterion to be applied concerns its impact on our relations with close allies in NATO and elsewhere. The treaty should meet the following tests.

Does it enhance or inhibit the establishment of a stable nuclear balance in Europe?

I have read with astonishment the assertion that the exclusion of European-based systems was a hard-won concession benefiting us. In view of the fact that the nuclear balance between theater delivery systems in Europe is almost three to one in favor of the Warsaw Pact, I find this statement grossly deceptive. But there are more fundamental issues to be addressed.

Does the treaty allow the United States sufficient latitude to make timely transfer of cruise missile technology to our NATO allies? Does it prevent them from developing and deploying a conventional variant immediately? In a broader sense, does it provide such a balance between the U.S. and the Soviet Union as to strengthen allied confidence in the linkage of U.S. strategic forces to their defense? Assurances provided thus far on these issues afford little basis for confidence.

CONSEQUENCES OF AMENDMENT

The fifth criterion to be applied in our deliberations concerns the consequences of amendment. As an a priori assumption, it must be accepted that where imbalances are allowed which impose unacceptable risks to United States security, they must be corrected. Within that context, the acknowledged vulnerability of the U.S. ICBM force which occurs in 1982 and the lack of crisis stability which derives from it are particularly worrisome.

There have been numerous assertions that amendments will destroy the treaty, shatter detente and lead to a dangerous period of increased Soviet adventurism. I find just the opposite to be true.

Surely, the approval of a treaty providing numerous major advantages to the Soviet Union could only provide encouragement for the continuation and even acceleration of recent trends. History reflects that the Soviet Union seeks to expand its influence by probing for weakness, advancing where it finds it, and stopping when opposed.

In my judgment, the best deterrent to continued Soviet efforts to gain influence in areas ever closer to vital U.S. interests—including petroleum resources—is a firm demonstration of U.S. will and determination to restore its strength and reassert its role as the leader of the free world.

In a related vein, we are told that without SALT II, Soviet strategic offensive forces will grow uncontrollably and we will face far greater risks. I have studied this question carefully. For the Soviets, such a course is both illogical and unnecessary. In view of the enormous measure of offensive superiority they already possess, it would seem far more likely to me that they will now concentrate on the enhancement of their defensive capabilities in such areas as antisubmarine warfare and air defense.

Regardless of the course they might choose, our first responsibility is to assure our own defense. Irresponsible forecasts of doom cannot escape this fundamental point.

There is a separate but related point which concerns what actions the U.S. might take if the Soviets refused to renegotiate SALT. The history since SALT I provides a useful precedent in this regard. The Senate, with the endorsement of the Joint Chiefs of Staff, approved SALT I after receiving assurances that vigorous programs would be pursued to assure the maintenance of the strategic balance. In point of fact, vigorous programs were pursued. Today, however—largely as a result of the SALT II syndrome—those programs either do not exist or have been seriously delayed. This shoddy history provides

anything but reason to repeat our mistakes by simple approval of SALT II. Nor do the limitations of future programs contained in the Protocol provide any basis for encouragement that our technological advantage—our last advantage—will not be bartered away.

CONCLUSION

These are the considerations which must be addressed in the coming weeks. I look forward to probing deeply into each area. Balanced arms control is the most vital policy issue of our generation—indeed, it is a moral imperative. But we must not permit our commitment to the objective to obscure honest recognition of facts. We are presented with an opportunity to either enhance the security of all mankind or to mortgage it for an illusory promise of peace.

SALT II—STATEMENTS OF WITNESSES IN SECOND WEEK OF HEARINGS BEFORE THE COMMITTEE ON FOREIGN RELATIONS

Mr. CHURCH. Mr. President, I ask that the statements of the witnesses appearing before the Committee on Foreign Relations during its second week on the SALT II Treaty be printed in the RECORD.

The second week of witnesses included: Monday, July 16, the Honorable Gerard C. Smith, Ambassador at Large and Special Representative of the President for Nonproliferation Matters; the Honorable U. Alexis Johnson, former Ambassador at Large, Chief, U.S. delegation, SALT Talks, 1973–77; the Honorable Paul C. Warnke, former Director, U.S. Arms Control and Disarmament Agency and former Chief, SALT Negotiations; Richard Barnett, Institute for Policy Studies; Jeremy Stone, director, Federation of American Scientists.

Tuesday, July 17, Adm. Elmo R. Zumwalt, retired, former Chief of Naval Operations; Adm. Thomas H. Moorer retired, former Chairman, Joint Chiefs of Staff; Gen. Russell Dougherty, retired, former Commander in Chief, Strategic Air Command; Adm. Isaac Kidd, retired, former Commander in Chief, U.S. Atlantic Fleet; Adm. Noel Gayler, retired, former Commander in Chief, U.S. Forces Pacific and former Director, National Security Agency.

Wednesday, July 18, the Honorable Harold Brown, Secretary of Defense; the Honorable George M. Seignious II, Director, U.S. Arms Control and Disarmament Agency.

Thursday, July 19, the Honorable W. Averell Harriman, former U.S. Ambassador to the Soviet Union; the Honorable Ralph Earle II, Chairman, U.S. delegation to the Strategic Arms Limitation Talks; the Honorable David McGiffert, Assistant Secretary for International Security Affairs, Department of Defense; the Honorable William J. Perry, Under Secretary for Research and Engineering, Department of Defense; the Honorable George Vest, Assistant Secretary, Bureau of European Affairs, Department of State; the Honorable George Ball, former Under Secretary of State; the Honorable Eugene Rostow, former Under Secretary of State. Some of the above listed witnesses did not have prepared statements.

The first 2 weeks of the Committee on Foreign Relations' hearings were devoted to an overview of the military, diplomatic, and political background to the SALT II Treaty. The next 2 weeks of the committee's hearings will be devoted to specific issues. Between July 23 and August 2, the committee will focus on the questions of verification, Backfire bomber, the ICBM question, United States-Soviet relations, and hear from former Secretary of State Kissinger, and Gen. Alexander Haig.

Mr. President, I ask unanimous consent that the witness statements be printed at this point in the RECORD.

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

SALT II—AMBASSADOR GERARD SMITH

I

Mr. Chairman, Members of the Committee: May I express the hope that in deliberations on this treaty some of the mood of earlier years of the nuclear era may be recaptured. What has happened to the awe and horror we felt in watching nuclear explosions from an atoll in the Pacific. Where is the horror we felt on looking at photos of Nagasaki and Hiroshima? All of us, I think, have become callous to the threat of nuclear war and the effects of nuclear weapons—of which Three Mile Island has given us a tiny taste. More and more we seem to adopt the numerical mental attitudes of systems analysts. Software and computer output replace personal appreciations of what nuclear war would really be. Remember when our youngsters told of civil defense drills at school involving their sheltering under desks. And newspapers often showed what 1 megaton would do to Washington and other cities. Most of that is gone—sublimated. If we are to get through this nuclear valley of death, I think it will take more than a cold balancing of kilopopunds of throw-weight or megatons of yield and the rest.

It would stress that with or without SALT we are in for a continuation of a fateful competition with the Soviet Union in the field of strategic weapons. Since the time before SALT—almost a decade ago when the Soviets were catching up—they have been mounting large, broadly based missile programs. We have also been modernizing our forces but in the case of our land-based Intercontinental Missiles (ICBMs) with less dynamism. Despite this we are not in an inferior position. We have doubled the number of our strategic warheads since SALT I started. We have installed over 500 modern MIRV'd ICBMs, almost 500 modern MIRV'd SLBMs, and over 1,000 short range nuclear armed attack missiles on our heavy bombers. A new fleet of missile submarines, the Tridents, will soon be joining the strategic forces. Strategic cruise missiles will also soon be deployed. We lead the Soviets in a number of important areas. Our forces are more survivable and diverse. But even if the treaty is ratified, we will go in for extensive improvement measures to avoid in the future a perceived imbalance between the Soviet and American forces. The basic question is—can we improve our strategic position with less risk and cost with SALT II controls than in their absence.

II

Let us first look briefly at the experience under the SALT I agreements of 1972.

The main product there was the Anti-Ballistic Missile Treaty limiting ABM sites to two for each nation. Many of us think that that treaty avoided a risky, costly and perhaps absurd competition to try to build defensive ballistic missile systems. In the late 1960's there were outspoken proponents for deploying defensive missiles to reduce damage which attacking Soviet missiles could do to population centers and to our Intercontinental Ballistic Missiles. (Even in those days we worried about the ICBM vulnerability problem.) Then it was realized that any such defensive system could probably be neutralized by the other side's simply deploying more offensive missiles—and to the extent that an ABM system did promise to be effective, it could be destabilizing if it led a nation to believe it could attack while expecting the ABMs to deflect the brunt of the retaliation. The ABM Treaty enabled us to avoid a very expensive and futile arms race in defensive strategic systems.

I think it is generally recognized that this Treaty has worked. Secretary of Defense Brown recently said it had contributed greatly to stability. The ABM limit was later reduced from two to one site for each side and we later decommissioned the one site which we had built. The Soviets have not completed their one existing system around Moscow. The ABM Treaty was reviewed by the parties in 1977 and found to be effective. It is to be reviewed again in 1982.

The other SALT I agreement was called an "interim freeze". Its purpose, as we saw it, was to hold down the number of Soviet missile launchers while negotiations for treaty limitations continued. The aggregate number of land and sea based ballistic missile launchers was limited to approximately the number which were then deployed or under construction. Heavy bombers in which we had superiority were not affected. We also had significant leads in warheads and technology, but the Soviets had substantially more ICBM launchers and were permitted to keep most of them. In this respect the freeze had an appearance of inequality although such was not the case when our other strategic forces were taken into consideration. Psychologically, the freeze got off to a poor start. And for some reason there was an expectation in some quarters that the Soviets would not substantially modernize and improve their ICBMs as permitted under the freeze, an expectation which was disappointed. I think that is a major factor in the negative attitude which some people now have towards SALT II.

Also agreed upon during SALT I were two arrangements of special significance for the problems of accidents involving nuclear weapons—certain measures to reduce the risk of outbreak of nuclear war and for modernization of the Washington-Moscow hot line. They are largely forgotten, but the hot line has more than once proved its use in emergencies and the war risk reduction agreement could be of importance in the future.

As part of SALT I, it was agreed that fulfillment of the commitments could be verified by what were called "National Technical Means of Verification", a smooth term for some of the intelligence systems of the two sides, including satellite photography. This proviso, in effect, legitimized the use of intelligence systems for arms control, a development which seemed to me an extraordinary thing for the Soviets to agree to.

The two sides also took commitments not to interfere with the operation of these intelligence systems and not to conceal from them the weapons systems limited by the agreements. These constraints on counter-intelligence measures have been an important plus for U.S. intelligence systems. With or without SALT we need to keep track of Soviet strategic force development and deployments. But without SALT, the Soviets could take any concealment measures available, thus making our monitoring task far harder.

There was also established by SALT I a Standing Consultative Commission whose function is to consider ambiguities which might arise and clarify doubts as to possi-

ble violations. This group has met frequently and has operated successfully. A number of ambiguities have been clarified. On some occasions practices by both sides which were considered inconsistent with the agreements have ceased. Presidents Ford and Carter have certified that there have been no violations of the SALT I agreements. Although by its terms the "freeze" expired in 1977, the Soviets even now are decommissioning some ballistic missile submarines in order to stay under a ceiling called for by this freeze. This, I think, is good evidence that the Soviets take SALT seriously.

I would say that (largely because no added ABM systems have been deployed by the USSR) American security is better now, after almost 7 years of operating under SALT I, than if the ABM Treaty and the missile freeze had not been approved by the Congress in 1972 and an unlimited competition had continued. We have gained confidence that certain commitments taken by the Soviet Union in strategic arms limitation can be verified. We are approaching SALT II, not as something new and untried, but as a continuation of a process that we have learned to live under and to count on.

III

The SALT II negotiation has been going on since November of 1972. It is some measure of the difficulty of this work that it has taken almost 7 years to reach an agreement which will expire in some 7 years.

IV

What is the case against SALT II? It is said that SALT I didn't stop the Soviets' strategic programs which may become superior to our forces, so why agree to SALT II? And SALT I did not lead to the expected relaxation of Soviet-American tensions. During the past six years the Soviets have engaged in an adventurist foreign policy which has been destructive of a number of U.S. aims.

Here I would point out that useful arms control arrangements should not be limited to times of superpower good behavior. The treaty prohibiting nuclear tests in the atmosphere followed shortly after the Cuban missile crisis. SALT I was concluded only a few weeks after the U.S. started bombing Haiphong in Vietnam, a Communist ally of the USSR. In fact, if the USSR is to continue an adventurist foreign policy, it might be better if its strategic arms were under some agreed controls. Competition is inevitable between two societies having such fundamentally different goals and policies. But I would rather see that this competition take place, if it must take place, in an arena where the most dangerous aspect is subject to some regulation and control.

I think that underlying most of the opposition's arguments is a belief that in an open competition not limited by arms control, United States superior technology would give us some advantage. Claims are made that the existence of the arms control relationship tends to moderate our reaction to Soviet bad behavior abroad and that SALT II would be a psychological constraint on modernization of U.S. forces.

It is said that the SALT process has lulled us into inertia and has had no such effect on the Soviets and in the absence of agreed arms limitations we would be more keenly aware that we had to make a greater effort. To some critics rejection of the treaty by the Senate would mean reinvigoration of American programs. As for rejection's effect on Soviet programs, critics are either silent or apparently inclined to trust that the Soviets would not expand their strategic programs.

Critics of SALT are especially concerned about the predicted vulnerability of our land-based ballistic missiles, the ICBM vulnerability problem. It is now believed that the Soviets will have the capability to destroy almost all of our ICBM's using but a fraction of theirs, a threat which critics think will tend to make the United States reluctant to stand up to the Soviets in a crisis. I would inject here this thought—if ever the Soviets were tempted to such a desperate act as attacking our ICBMs, they would have to make the risky calculation that the Americans would never fire their missiles before Soviet missiles hit American targets, I wonder. I am not urging that the U.S. adopt a procedure of "launch on warning". But the possibility that we would is a not unreasonable contribution to Soviet uncertainties. The Soviets would also know that if they struck our ICBMs, the U.S. would still have thousands of warheads in the alert bomber force and on its missile submarines at sea. Nevertheless, this ICBM vulnerability question needs more attention. SALT would impose no constraints on our efforts to solve or mitigate this problem.

Critics also emphasize that the Soviets could keep some 300 fixed launchers for very large ballistic missiles now in their force while the United States could not deploy any. U.S. force planners have consistently chosen not to match the Soviets in heavy missiles and to emphasize more important characteristics. The main consideration has been "What are our requirements?", not "Let's copy the Soviet forces."

Admittedly, it would look better if the United States had the right to build the same number of such fixed launchers as the Soviets now have whether or not we ever wanted to exercise it. But this would have no practical effect on U.S. forces during the life of SALT II. The U.S. has no use for and does not plan to deploy this kind of missile. Why would we want to deploy a fixed missile system of any kind when such systems are becoming vulnerable?

The situation will be exactly the same or worse if the treaty is not ratified. On the Soviet side there will be some 300 such launchers, (if not more), while we would not deploy any. Nothing in the treaty would prevent the testing or deployment of the new missile, the M/X. It is important to know that the heavy Soviet ICBMs are not the proximate cause of our prospective ICBM vulnerability. That situation would exist even if the Soviets had no heavy ICBMs. Accurate and MIRV'd light ICBMs would offer a similar threat. I understand that the U.S. traded its right to fixed heavy ICBMs and permitted the Soviets to keep their heavy ICBMs while the Soviets abandoned their long-held position that American nuclear systems based in Western Europe and the Far East and the fact that U.S. allies deploy substantial strategic missile forces must be taken into consideration in setting SALT ceilings. That seems to me like good use of a right we had no intention of exercising—it was an arrangement that fully commended itself to our allies.

Critics also don't like the fact that effective limitations would not be placed on the Soviet bomber "Backfire" which, though not truly intercontinental, does have some capability to strike targets in the United States. But here the U.S. does have the right to build unlimited numbers of aircraft of this type. More numerous than Backfires are the nuclear capable NATO fighter bombers which can strike targets in the USSR and which also would not be SALT limited. Neither would the strategic missile forces of our allies, the UK and France, be limited. (I understand that the Soviets have agreed not to increase the present production rate of Backfires—some 30 a year.)

Certainly there are weaknesses in our strategic forces that need correction and certainly SALT does not solve all of our strategic problems. But I believe the treaty would make these problems more manageable. Secretary of Defense Brown recently said that SALT II would make the strategic balance more predictable and would place important limits on the threat we will face. I have been advised that the SALT constraints would not prohibit any U.S. programs designed to reduce or eliminate present weaknesses. What modernization measures are necessary involves important issues needing enlightened debate. But a judgment about SALT should not depend on whether one favors these improvements or not. SALT does not require or prevent any of them.

Critics believe that the Soviets do not hold to our doctrine that the main function of strategic arms is to deter the other side from using or threatening to use its strategic forces. They say that the Soviets are planning not only to deter but, if necessary, to fight a nuclear war to a successful conclusion with damage limited by their weapons systems and by a large scale civil defense program to protect their people. These critics feel that strategic arms control will not work to our interest in the absence of acceptance by the USSR and the US of a common strategic doctrine. But it is not apparent that SALT will have an effect one way or the other on Soviet decisions about doctrine, nor will it prevent our adopting a doctrine more like that imputed to the Soviets and forces appropriate to it. We can make decisions about whether we want a greater "war fighting" capability, including a civil defense program of the kind and scale of that of the Soviet Union, independently of SALT.

Looming behind much of the criticism of the SALT package is doubt on the part of critics as to verifiability of commitments to be taken. They fear that the Soviets will violate the agreements and steal a march on the United States. By the same token, in SALT I an anxiety of some Americans was that the Soviets would violate the ABM limits by using anti-aircraft systems for anti-ballistic missile purposes—the so-called Sam upgrade problem. They didn't.

In addition to SALT I—our intelligence has confirmed that the Soviets are living up to other arms control agreements, the Limited Test Ban Treaty which curbed the pollution of the atmosphere, the Antarctica Treaty, the Seabeds Treaty and the Outer Space Treaty. And now they know that their performance will be under closer scrutiny than ever.

In considering verification, keep in mind that it does not involve trusting the Soviets. It does involve confidence that our intelligence systems have already proved capable of monitoring performance of SALT I obligations and can check on Soviet performance under SALT II. In addition, SALT II (by a provision which is unique in modern arms control arrangements) the sides have disclosed the exact composition of their present strategic forces and have agreed to update this data base" to reflect future changes. Secretary of Defense Brown recently said, "We are confident that no significant violation of the treaty could take place without the U.S. detecting it." We would be able to respond with appropriate actions before any seriously adverse impact on the strategic balance could take place. The relatively short life of the treaty, which would end in 1985 and in addition could be terminated on 6 months' notice, is good insurance that the Soviets cannot gain any advantage from not living up to its provisions. Even such a tough SALT scrutinizer as my friend, Paul Nitze, takes a somewhat relaxed view of the matter. In an article in Foreign Affairs in 1976 he wrote, "I personally take the verification issue less seriously than most because the limits are so high that what could be gained by cheating against them would not appear to be strategically significant."

V

Intelligence about Soviet strategic arms is a combination of knowledge about present

capabilities and estimates about future developments. SALT helps in both respects. Present deployments can be more precisely determined since the Soviets are not permitted under the agreements to conceal weapons systems which are limited and they have agreed not to interfere with our National Technical Means of Verification (intelligence systems). As for estimating future deployments, the agreement spells out the maximum permitted levels of the limited systems, thus simplifying somewhat the problem of prediction of future force levels. The absence of this "predictability", which would result from a SALT rejection, would make the future strategic balance more uncertain and would thus be destabilizing.

VI

In the Soviet Union are there also critics of SALT? While we don't hear their voices, I suspect that there are. Here are a few points they may be making:

1. The USSR would have to reduce its forces while the Americans could increase theirs.

2. The Americans will have many highly accurate air-launched cruise missiles during the life of the treaty and the Soviets will have few or none at all.

3. Soviet submarines are noisier and Soviet access to the high seas is much more constrained than America's. And the Americans have a forward base for their missile submarines in Europe and the Soviets have none in this hemisphere.

4. The Soviets have four nuclear adversaries with strategic forces—the U.S., the UK, France and China—and the Americans have but one.

5. The Soviets have an inferior heavy bomber force. The United States has over 300 truly intercontinental bombers.

6. The Soviets have nearly three-quarters of its warheads in less vulnerable systems—the United States has nearly three-quarters of its warheads in less vulnerable systems—bombers and submarines.

7. The United States can count on many hundreds of nuclear capable fighter bombers deployed close to the Soviet Union which could destroy hundreds of targets in Russia. These systems are not limited by the agreement.

VII

There are several other important considerations—

My responsibilities are now in the field of non-proliferation—to try to control the spread of nuclear weapons around the world. This is called horizontal proliferation, as opposed to vertical, which refers to the build-up by the 2 superpowers of their nuclear forces.

To my mind the threat to American security from horizontal proliferation is substantially greater than that presented by the continuing improvement in Soviet forces. Imagine the instabilities that would be created if and when more nations have nuclear weapons or even a weapons potential. This is no empty anxiety. Pakistan is now headed in that direction. A key country for our non-proliferation efforts is India which exploded a nuclear device 5 years ago. One can hardly expect India formally to give up a weapons option until at least some further progress on SALT is registered and there is further prospect that the superpowers are putting their strategic weapons under constraints.

One of the main instruments to contain the spread of nuclear weapons is the Non-Proliferation Treaty which has been in force for almost ten years. Over 100 countries have taken commitments not to go for nuclear weapons. But there is a *basic bargain* embedded in this treaty. Those non-weapons countries' commitments are contingent on Soviet and American progress in controlling their nuclear arms. If efforts to this end of the last 7 years don't produce results, the integrity of this essential Non-Proliferation Treaty will be cast into doubt and our task of trying to control proliferation will be substantially increased. That, to my mind, is a very important reason for getting on with SALT II.

VIII

Without SALT II the continuance of the ABM Treaty could be in doubt and we could once again face a competition to deploy defensive missile systems. When, in 1972, the first SALT agreements were presented to the Congress, they included a statement which I had made to the Soviets at the direction of President Nixon that if a SALT II treaty limiting offensive forces to match the ABM Treaty was not reached, that could constitute a justifiable cause for abrogation of the ABM Treaty. Critics of SALT II already are calling for terminating the ABM Treaty. And the USSR could take the same position that we had reserved for ourselves in 1972. Then, whether the ABM Treaty survived or not would be entirely up to the Soviets—who face nuclear threats from three smaller nuclear powers for which ABMs might be effective.

If the ABM Treaty is lost, we would again be in an unlimited strategic competition in which the Soviets would no longer be committed not to interfere with our technical means of verification and not to conceal their launchers. Gone also would be the S.C.C. consulting mechanism which has worked well to clear up ambiguities. I think these would be substantial losses for our intelligence capabilities.

The Soviets have a large advantage—in their superior command of information. They have the ability to predict the size and quality of American strategic forces of the future merely by studying our defense budgets and other documents in the open literature. Before SALT I we had to depend solely on hard won intelligence. In SALT I we obtained a degree of predictability about what Soviet force levels would be during the ABM Treaty and at the end of the 5-year freeze. We also gained an advantage from the Soviet commitment not to interfere with our means of verification or to conceal limited arms from them. Without SALT ceilings for the future, our uncertainties would increase. This would hardly make for stability.

IX

It has been said that SALT will prejudice the interests of our allies, but the leaders of France, England and Germany have expressly, forcefully, and publicly endorsed the SALT package as has the Secretary General of NATO and the NATO defense ministers. Last month Chancellor Schmidt said that rejection of SALT would be a "catastrophe".

I couldn't put the case for SALT better than Schmidt did recently in the Bundestag. "SALT II can be concluded only in the form of a compromise . . . if everyone involved will accept something that is not fully in line with their own interests—it is necessary to differentiate between critical remarks involving individual aspects of this package . . . and the great world political significance of the whole treaty—otherwise the whole world will suffer a most serious confidence crisis." Later he said,"No people in Europe would be more seriously affected by the consequences of the failure of SALT II than the German people. For in our geopolitical situation we need to be able to trust in two things more than anybody else: Trust in the ability of the West to achieve and preserve a stable equilibrium, and trust in the continuation of the policy of detente on this sound foundation. The successful conclusion of SALT II will reinforce this trust. The success of SALT II will encourage the West and the East to find solutions—including arms control measures—for other potentials threatening the military balance of power."

X

At stake here is whether or not the U.S. Government is capable of conducting a coherent foreign policy.

In the current, uneasy state of relations with our allies, rejection would prejudice economic and political cooperation as well as defense policy coordination. U.S. prestige, influence and leadership around the world would suffer badly.

XI

What about possible Senate approval but with proposed amendments or reservations? If they were substantive and required that the negotiation be reopened and the bargaining resumed, it seems likely to me that the renegotiation would not succeed. Agreed Soviet-American arms limitations are reached only as a result of concessions and counter-concessions which in turn are the result of internal bargaining in Washington and I believe also in Moscow. Nothing is agreed until everything is agreed. To start afresh would mean to reopen the whole bargain—not just to negotiate for one or more additional provisions. I would urge that close attention be given to whether one judges any proposed amendment to be negotiable or not, and before any renegotiation was launched we cannot avoid the question, "What further concessions are we prepared to make?"

XII

Our choice, it seems to me, is to continue to modernize our forces for some 6 years under agreed SALT II ceilings with certain limitations on Soviet and American weapons systems or to go back to an unlimited contest. Is it in our interest to continue the deadly competition but with some ground rules to make it somewhat less costly, somewhat safer? On balance, I believe the United States will be in a relatively better position if we pursue force modernization programs under the SALT II package than if we go ahead in unlimited competition. But I think we should recognize that SALT II is no panacea, that it does not warrant the great expectations generated at the time of SALT I, and that it is a step, a necessary move toward more significant reductions and constraints which we should press for in the years ahead. The negotiations for major force reductions should start promptly.

STATEMENT OF AMBASSADOR U. ALEXIS JOHNSON BEFORE THE COMMITTEE ON FOREIGN RELATIONS, U.S. SENATE, JULY 16, 1979

Mr. Chairman and Members of the Committee: I am pleased to appear before this Committee to be of whatever assistance I can in your important deliberations on the Strategic Arms Limitation Treaty signed at Vienna, Austria, on June 18, 1979, by President Carter and General Secretary Brezhnev. At the outset I want to make it clear that I retired from the Foreign Service and resigned as Chief of the United States SALT Delegation on February 28, 1977. Thus, I can in no way speak for or on behalf of the present Administration. However, I thought it might be helpful if I would summarize some of the highlights of the negotiations during the four-year period I was Chief of our Delegation, from February 1973 until February 1977.

During this period I had literally hundreds of meetings over thousands of hours with my Soviet counterpart, Vladimir Semenov, then Soviet Deputy Foreign Minister. Those negotiations were divided into two quite distinct periods. The first period was from March 1973, which followed closely upon the conclusion of SALT I, until November 1974. As you well know, in November 1974

President Ford met with General Secretary Brezhnev at Vladivostok and reached an understanding on SALT. The translation of that Vladivostok Accord into detailed treaty form was the subject of the second period of our negotiations until my last meeting with the Soviet representative in November 1976.

The enormous complexities of the many proposals and counterproposals that were made over those years can, I feel, best be dealt with in a generally chronological fashion. Therefore, I will first deal with the period prior to the November 1974 Vladivostok meeting.

In late 1972 and early 1973, the Administration of President Nixon had formulated some basic concepts to be proposed to the Soviets for the SALT II agreement. These concepts included:

Equal aggregate ceilings on the central systems of the two sides, that is, on the aggregate number of ICBM launchers, SLBM launchers, and heavy bombers.

Eventual reductions in the number of such central systems.

No provisions to be included concerning or taking into account the so-called "forward-based systems" of the U.S. or the nuclear systems of our Allies, as insisted on by the Soviets.

The inclusion of qualitative limitations, including limitations on ICBMs, which were recognized as the most destabilizing of strategic offensive arms.

My initial negotiations with the Soviets were based on these concepts.

The Administration at that time was strongly committed to the policy that the strategic nuclear forces of the United States should be no less than equivalent in the overall sense to those of the Soviet Union. This was expressed by the concept which we called essential equivalence in central systems. In this the Administration was also taking account of the Jackson amendment associated with the ratification of the SALT I agreements in 1972, which called for the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union.

It was on these bases that the U.S. SALT Delegation was instructed in the spring of 1973 to make a proposal for an equal aggregate ceiling of ICBM launchers, SLBM launchers, and heavy bombers for the two sides. The number that we proposed at that time was 2350 for each side. We also pushed the concept of reductions from that number, without, however, making specific numerical proposals. Our proposals contained no explicit provision to cover U.S. forward-based systems (FBS), nor did our proposals take into account directly or indirectly U.S. FBS or the nuclear forces of our Allies.

An important aspect of the proposals made by the U.S. Delegation in 1973 and 1974 were those aimed at qualitative limitations on strategic offensive arms. These included limitations on ICBM throw-weight and on MIRVs.

For their part, the Soviet Delegation pressed hard all through the period leading up to Vladivostok simply to extend to the new Treaty the asymmetric limits on ICBM and SLBM launchers which had been agreed in the Interim Agreement. They also made vague proposals to limit the number of heavy bombers, but we never could determine precisely what they had in mind. The Soviets tried to justify these asymmetric limitations on central systems as an offset for U.S. FBS and third country nuclear forces, namely, those of the United Kingdom, France, and even China!

At the same time the Soviets pressed for strict and detailed limitations on all U.S. FBS. The Soviets proposed that a strategic offensive arm be defined to be any nuclear system whose characteristics, including its geographic deployment, enabled it to strike the territory of the other side. This proposed definition included attack aircraft carriers with nuclear delivery aircraft, as well as U.S. nuclear delivery aircraft deployed on the territories of our Allies. Their detailed proposals concerning these systems included withdrawal of all ballistic missile submarines and aircraft carriers with nuclear delivery aircraft beyond some limits (which they did not specify), as well as a phased withdrawal of what in effect amounted to all U.S. FBS and U.S. bases for FBS from third countries. In addition, they proposed strict prohibitions on transfers to third states of strategic offensive arms and the technology related to such arms. The net effect of these one-sided proposals would have been essentially to ban all U.S. long-range theater nuclear forces and to disrupt military cooperation with our Allies.

The strategy of the U.S. SALT Delegation in this 1973–1974 period was to push hard for Soviet acceptance of the basic concepts we were proposing: equal aggregates, reductions, and qualitative limitations. At the same time, we vigorously rejected the Soviet proposals regarding FBS and non-transfer, as well as the concepts underlying them. However, the two Delegations were not able to come to agreement on these issues as of November 1974.

This is the background from the Delegation viewpoint of the period that led up to the summit conference between President Ford and General Secretary Brezhnev at Vladivostok in November 1974, at which they agreed upon on a set of principles for a SALT II Treaty. Some of the most important results of the Vladivostok Accord were:

A Treaty to cover the period up to the end of 1985.

An equal aggregate ceiling of 2400 systems.

An equal subceiling of 1320 MIRVed systems.

No limitations on, or account taken of, U.S. FBS or Allied nuclear forces.

Carry over to the new Treaty the Interim Agreement limitations freezing the maximum numbers of ICBM launchers and of modern heavy ICBM launchers.

Given the very strong emphasis that the Soviets had continued to place on asymmetric central system limitations to offset U.S. FBS and third country nuclear forces, I was frankly surprised and pleased at President Ford's success at Vladivostok in getting the Soviets to agree to equal aggregates with no limits on U.S. FBS.

When the two Delegations resumed in Geneva in late January 1975, we had the task of drafting precise Treaty language based on the general principles which had been agreed at Vladivostok. Within about a month, each of the two Delegations had tabled a draft text for the Treaty, and we began work which soon led to a Joint Draft Text.

The U.S. had some specific aims in drafting the Treaty. One aim was to draft precise and unambiguous definitions of the strategic offensive arms to be limited in the Treaty. This was vitally important in order to make clear the obligations of the two sides and to ensure that the two sides would have the same understanding of the limitations in the Treaty. Such agreed definitions would thus help to avoid misunderstandings during the life of the Treaty. At first the Soviets rejected the concept of putting definitions in the Joint Draft Text. For example, they professed to believe that the language in the Interim Agreement concerning "light" and "heavy" ICBMs would suffice as a "definition" of the term "heavy" ICBM for the new agreement. Of course, one of the problems that had emerged in the Interim Agreement was the lack of an adequate definition of this term. Similarly, they opposed definitions of MIRVs and of throw-weight and a specific limitation on heavy ICBMs. In the next stage, they agreed to the concept of putting definitions in the Joint Draft Text, but opposed the detailed and precise definitions which we were proposing. Finally, and all of this took the better part of a year, the U.S. Delegation got the Soviets to agree to the approach to Treaty definitions that we had been proposing all along.

When the two Delegations got down to the business of working out these detailed definitions, it turned out, as we had expected, that significant substantive questions arose which required many months or even several years to resolve. One of our major achievements was to get the Soviets to agree to a detailed definition of "heavy" ICBMs and to agree to put a cap on the capabilities of "heavy" ICBMs. Specifically, by November 1976 we had obtained Soviet agreement on language which in effect defines a "heavy" ICBM as any ICBM with a launch-weight or throw-weight greater than that of the Soviet SS–19 ICBM. This means that no "light" ICBM can have a launch-weight or throw-weight greater than that of the SS–19. The Soviets also agreed on language which in effect bans any ICBM with a launch-weight or throw-weight greater than that of the Soviet SS–18 ICBM. In connection with these provisions, we also had agreement on technical language defining the launch-weight and the throw-weight of an ICBM.

By November 1976 some of the definitions in the Joint Draft Text, such as the above definitions and also the definition of MIRVed missiles, were fully agreed. The remaining definitions were in an advanced stage of negotiation.

Another aim of the U.S. was to get Soviet agreement on type rules and counting rules which would make feasible verification of certain provisions which otherwise would be extremely difficult to verify. For example, the Soviet SS–17, SS–18, and SS–19 ICBM systems had all been flight-tested with both MIRVs and single RVs. It would be extremely difficult to tell whether a given missile contained MIRVs or a single RV. To solve this problem, the U.S. proposed early in 1975 a MIRVed missile type rule in which in effect any missile of a type which has been flight-tested with MIRVs would be considered to be a MIRVed missile. Thus, for example, all SS–17, SS–18, and SS–19 ICBMs would be considered to be MIRVed ICBMs, regardless of their actual payload. At first the Soviets rejected the concept of type rules and counting rules, saying that they would lead to overcounting, for example, by counting as MIRVed some systems which were in fact not MIRVed. However, the U.S. Delegation pressed the argument that the Treaty simply would not be verifiable without these rules, but would be verifiable with them. The Soviets eventually agreed to our approach. During the 1975–1976 period, the U.S. proposed type rules for ICBM launchers, heavy bombers, ASBMs, MIRVed ICBM and MIRVed SLBM missiles, and launchers of MIRVed ICBMs and MIRVed SLBMs. We made significant progress in this area during that period.

As you may know, the Soviets had not agreed at that time to the U.S. interpretation of the Vladivostok Accord with respect to the limitations on air-to-surface missiles. The U.S. held that these limitations would apply only to air-to-surface ballistic missiles, while the Soviets proposed that these limitations also apply to air-launched cruise missiles. This issue was at the time also under discussion at higher levels, but was not resolved by November 1976.

One of the important steps that the U.S. Delegation made in 1975 was to propose that the two sides establish a data base consisting

of agreed numbers by category of the strategic offensive arms of each side limited by the Treaty. This was to be done at the beginning of the Treaty and twice annually in the Standing Consultative Commission. The rationale for such a data base was to ensure that the sides had the same understanding of the limitations in the Treaty and to help manage the aggregate limitations during the life of the Treaty. You will recall that the Soviets had never before given out such information on their own military systems, so that the negotiability of this proposal was not assured. Indeed, we made only a little progress toward gaining their acceptance of the concept of data base by November 1976, although we had pressed them vigorously on all aspects of this issue. I was pleased to see that subsequently the U.S. Delegation was successful in obtaining Soviet agreement to the data base, and that it has become an important component of the SALT II agreement.

I now want to summarize where the Joint Draft Text stood when the two Delegations recessed in November 1976. The principles agreed at Vladivostok had been incorporated into the Joint Draft Text, including those basic concepts which the U.S. had been pushing since the beginning of SALT II. However, the air-to-surface missile issue discussed above had not been resolved at that time. The Backfire issue had also not been resolved. The Soviets had accepted the U.S. approach with regard to detailed definitions and type rules and counting rules, although differences remained. The sides had agreed to extend to the SALT II Treaty the mandate of the bilateral U.S.-Soviet Standing Consultative Commission, which had been set up under the SALT I agreements to develop procedures to implement those agreements and also to consider possible compliance issues and ambiguous situations related to those agreements. In short I would estimate that at least eighty percent of the substance and language of the final text had been agreed by November 1976. The U.S. Delegation had conducted vigorous negotiations on the remaining issues which were still outstanding as of that date. Having been deeply involved in so much of the negotiation and drafting, I cannot refrain from noting how interrelated and intertwined each part of the text is with other parts, so that the whole is a single web.

Criticisms can readily be made of what has or has not been accomplished by three administrations in this very complicated field. The ideal would be an agreement so comprehensive, so perfectly balanced, and so well anticipating the future that we would never again have to concern ourselves with the omnious shadows that these beasts of nuclear weapons cast over our lives. However, we must deal with the world as it is, not as we would wish it to be.

In my own view SALT has nothing to do with what one's view may be with respect to detente, co-existence, or any other such terms. It has nothing to do with whether one likes the Soviets or does not like the Soviets, or whether one trusts the Soviets or does not trust them. I accept the statements of the Soviet leaders that they intend to remain our implacable foes, if not physically, then, as they say, ideologically. However, this should not prevent us from recognizing what is an obvious common interest in doing what can be done by agreement to reduce the danger of mutual suicide by the limitation of the strategic forces of the two sides in a way that will contribute to stability rather than to instability in time of crisis.

I feel that the SALT dialogue at all levels, Chiefs of State, Foreign Ministers, and Delegations, as well as Congressional and private debate, has been useful, even though it has not by any means led to a full meeting of minds, even among ourselves. This is understandable, as apart from differing ideologies between ourselves and the Soviet Union, and differing philosophies among ourselves, we are dealing with a fast moving and evolving technology which no agreement is going to freeze. However, as specific points of common interest emerge during the dialogue, we should seek to negotiate agreements on those points without judging the outcome against the impossible standard of such a comprehensive and definitive agreement that all of the problems for all time to come would be resolved. Rather each agreement should be judged as to whether it is a constructive and useful step forward.

In my view the SALT II agreement meets that test. Thus, I favor its ratification.

STATEMENT OF PAUL C. WARNKE BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE, JULY 16, 1979

Mr. Chairman and Members of the Committee: During the past week, the Committee has received a full briefing on the details of the SALT II treaty and, in the testimony of Secretary of State Vance, Secretary of Defense Brown, Arms Control and Disarmament Agency Director Seignious and Ambassador Ralph Earle, a detailed analysis of the reasons why it contributes to the security of the United States. It is, therefore, difficult for me to see that I would add anything by a largely repetitive statement. I will, of course, be happy to reply to any questions that the members of the Committee might raise.

In the way of prefatory comments, however, I would like to comment briefly on the SALT process itself, as I saw it during my months as Director of the Arms Control and Disarmament Agency and Chief SALT Negotiator. I would like also to address myself to a few lines of argument that have questioned the value of this treaty. With regard to the process, the Committee, of course, is familiar with the way in which the American negotiating position has been developed and implemented. From my observation, the decision-making process in SALT has been a careful, thorough one that takes into account the views of all of the agencies of government primarily concerned in arms control and other national security matters. The SALT working group and the Special Coordinating Committee that have functioned under the National Security Council are multi-agency in composition. In the development of our proposals, every effort has been made to try and accommodate varying views and reconcile them when there have been differences.

Quite naturally, such differences have arisen. It cannot be expected that in every instance the starting points of State, the Office of the Secretary of Defense, the Joint Chiefs, the National Security Council staff and the Arms Control and Disarmament Agency will be identical. Inevitably, and I think helpfully, there is a bargaining process that goes on within the United States Government itself proceeding in parallel with the bargaining between the United States and the Soviet Union. No agency can or should expect that its initial decision will automatically prevail. No one of us who has been involved with the process has won every battle. Compromise is inevitable if consensus is to be reached.

In evaluating the product, therefore, the test must be whether the treaty does in fact serve the interests of the United States. It is not, as I see it, constructive or even feasible for anyone to pose the test whether the treaty is in all respects what any individual or any agency of the United States Government would most like to have seen.

Speaking personally, I am frank to admit that there are provisions in the treaty that I would have preferred to see written differently and other provisions that I would have liked to have seen added. In several of these cases, I have some confidence that these changes and additions would have been negotiable with the Soviet Union. But these considerations are not, as I see it, relevant to the issue now before us. That issue is whether the entry into force of this treaty is in the national interest. If not, it should be rejected. If so, it should be approved promptly and any unsatisfied further aspirations be addressed in the continuing SALT negotiations.

Some critics of the SALT process have charged that those involved in developing our negotiating positions have become preoccupied with the need to secure an agreement rather than with the substance of that agreement. My experience shows that this charge and this apprehension are completely without foundation. There are, obviously, some ancillary advantages that can be anticipated from the successful completion of the treaty—making possible other useful arrangements with the Soviet Union, fostering allied confidence in American leadership and holding the way open for more substantial reduction in and controls over nuclear weapons. But, as I see it, these supplemental benefits can be anticipated if and only if this treaty itself is a sound and effective step forward in nuclear arms control. On that question, I am confident that an affirmative answer can be given.

With respect to some of the principal lines of argument presented in questioning the value of the treaty, I would like to address first the major criticisms that it does not do enough to restrict Soviet nuclear weapons systems. Principal among these is the argument that the SALT II treaty is unequal to the disadvantage of the United States, because it does not require the Soviets to get rid of their over 300 launchers of the so-called heavy intercontinental ballistic missiles.

Some of the more vigorous opponents point out that, for the term of the treaty, only the Soviet Union will have this largest type of intercontinental ballistic missile. This is true. But the reason is that the United States, several years ago, elected for military reasons to stop building the large liquid fueled ICBMs and to build instead the smaller solid fueled, more readily maintained, more reliable Minuteman missiles. We today have none of these heaviest-type missiles because our military planners see no military need for them. During the SALT I negotiations, the United States proposed that there be a freeze on launchers of these heavy missiles. Although the freeze affected only the Soviet Union because the United States had no heavy missile program, the Soviets agreed to limit such launchers to the number then existing.

In SALT II negotiations, the question of heavy ICBM launchers was again addressed. As part of the agreement reached at Vladivostok when President Ford met with Mr. Brezhnev in late 1974, the Soviets accepted our insistence that the SALT II limits apply only to intercontinental range nuclear delivery vehicles, and not to our forward based systems that could strike Soviet targets from European bases. The United States in turn accepted the fact that SALT II would not require reductions in Soviet heavy ICBM launchers.

Despite the Vladivostok understanding, the proposals we presented in Moscow in March of 1977 included a reduction of about one-half in the Soviet heavy missile launchers. This bargaining position was, not unexpectedly, unacceptable. The Soviets pointed out that this would require them to cut out about 150 of their newest missile launchers, while the United States would eliminate no

launchers and was proposing to go ahead with its own new programs including new and larger submarine launched ballistic missiles and long-range cruise missiles on strategic bombers.

The Soviets did, however, agree to continue the SALT I ban on any increase in the number of heavy missile launchers. In addition, the Soviets accepted an amended American proposal putting a subceiling of 820 on all types of MIRVed ICBMs. From the standpoint of the strategic balance, this is a more effective limit than if the SALT II agreement required a cut just in the Soviet SS-18s, but permitted them a total of 900 or 1,000 MIRVed ICBM launchers of all types.

In short, therefore, the SALT I freeze on heavy missile launchers—carried over into SALT II—represents a constraint on Soviet programs and none on our own. We have no heavy missiles because our military planners continue to see no U.S. military need for them. But the Soviets have to limit their program substantially below what it would be in the absence of SALT.

Those who argue that the SALT II treaty should be rejected because the Soviets wouldn't agree to give up all or most of their heavy missiles thus turn logic on its ear. Under the SALT limitations, the Soviets will have far fewer launchers of SS-18s and of all MIRVed ICBMs—18s, 19s and 17s—than if SALT were to be rejected. A vote against SALT therefore is a vote for more of these biggest Soviet nuclear weapons.

The fact that SALT limits Soviet heavy missiles and in no way interferes with planned American programs is dramatically shown by the SALT II negotiations about ICBMs on mobile launchers. The SALT I limits on size applied to the fixed launchers, not the missiles themselves. The Soviets were limited in SS-18 deployment because of the ban on building new ICBM silos or substantially enlarging existing silos. Accordingly, inasmuch as our MX would be deployed on mobile launchers, not in fixed silos, continuation of SALT I restraints would not limit its launch weight or throw-weight. The MX could have been designed to be as large as the heaviest Soviet missile.

Of course, the absence of size restrictions on ICBMs on mobile launchers would permit an increase in Soviet deployment of more SS-18 size ICBMs. After extensive study on the question, the Secretary of Defense and the Joint Chiefs concluded that the optimum size for the MX would be no greater than the Soviet SS-19, the heaviest light missile as defined in the SALT II treaty. In accordance with the decision of our military planners, therefore, the negotiators in Geneva proposed Article IX, subparagraph 1(d), which bars "mobile launchers of heavy ICBMs." The Soviet negotiators stoutly resisted this limitation, recognizing it as in effect a restraint only on a Soviet program. Eventually, however, they agreed to accept it.

The importance of the SALT II restrictions on the Soviet land-based ICBM force can best be seen by considering what the Soviets could do if the SALT II restrictions did not go into effect. Without SALT the Soviets would be free to build as many new ICBM launchers as they saw fit. Their ongoing programs include not just one, but a whole fifth generation of the new Soviet intercontinental ballistic missiles. There would be no limit on the size of such missiles and, most important, no limit on the number of MIRVs or separate nuclear bombs with which each missile could be equipped. The SS-18 in the absence of SALT could have as many as 30 or even 40 separate warheads.

The restrictions negotiated in SALT, therefore, improve the survivability of our own strategic force, and indeed the survivability of the United States, by preventing Soviet deployment of many thousand additional strategic nuclear warheads. We can, accordingly, have confidence that our retaliatory capability is not in jeopardy and that a nuclear attack is fully deterred.

Critics of the agreement, however, recently have argued that a collapse of SALT would not mean any appreciable increase in Soviet strategic nuclear forces. They maintain that the Soviet Union is already doing as much as it can afford to do. Their remarkable contention is that the Soviets have been pushed to the limits of their resources and, presumably, that without SALT they could do no more while we would have a free hand to increase our spending and actually could achieve some sort of strategic advantage.

This argument, in my opinion, sadly misconceives the real world. The facts are that the Soviets by merely continuing their existing programs unconstrained by SALT would have over 3000 strategic nuclear delivery vehicles by the end of the SALT II period and could have as many as 18,000 strategic nuclear warheads in their inventory. This would require no big increase in annual spending, but merely a continuation of their production lines. Production of the SS-16, with its potential for deployment on existing Soviet mobile ballistic missile launchers, also could easily be resumed.

Moreover, there is no basis for the suggestion that the Soviets are at the end of their tether and that they could not make substantial increases in expenditures on strategic nuclear weapons. Were this to be the case, the much-vaunted Soviet threat would loom less large.

As for myself, I am unable thus to discount the Soviet military potential. Admittedly, they spend a very large proportion of their resources on defense. Without this heavy drain, the average Soviet citizen's standard of living unquestionably would be higher. But the hard-come-by gains in that standard of living could readily be diverted by government that need not face an aggrieved electorate and further sacrifices could be demanded in the name of Soviet national security. Moreover, we could anticipate that a Soviet leadership would have considerable success in marshalling popular opinion to believe that American rejection of SALT portended a change away from any effort at detente, a decision for all-out confrontation and hence a grave risk to Soviet security.

For our own security, the risks of a substantial additional buildup in numbers of Soviet missiles and numbers of Soviet warheads, with a consequent decrease in the survivability of our own forces and the stability of the deterrent, cannot blithely be disregarded by predictions that economic constraints and domestic priorities can substitute for SALT limits on Soviet strategic forces.

Another major criticism, and indeed the focus of the most insistent complaints about SALT II, is the alleged impact on U.S. ability to improve its strategic forces. The fact is that, as explained by the President after SALT was signed: "The agreement constrains none of the reasonable programs we have planned to improve our defenses." Throughout the negotiations, care was taken to preserve the options that those responsible for our military force planning have defined as necessary to our security.

I have referred to our deterrent triad of intercontaintal ballistic missiles, submarine-launched ballistic missiles and strategic bombers. Each of these components can be modernized during the SALT II treaty period.

Our heavy bombers can be equipped with cruise missiles of unlimited range, assuring that this part of our nuclear deterrent could penetrate any conceivable Soviet air defense through 1985 and well into the future. Existing bombers can be equipped with as many as 20 such missiles, and when new bombers are produced, each one can carry an even greater number.

Our ballistic missile submarine force will remain invulnerable to any antisubmarine warfare developments because of new longer-range Trident missiles. As these come into the force, our submarines can operate in coastal waters of the United States for greater survivability and easier command and control.

The exception permitted each side for a new ICBM will permit us to develop the MX missile and deploy it after the period of the Protocol on whatever type of mobile launcher system is decided upon as best to improve the survivability of this part of our force.

As the Joint Chiefs of Staff informed the Committee last Wednesday, there are "a number of important restrictions in SALT II which operate primarily to our advantage." The Chiefs pointed out further: "On the other hand, the specific limits on U.S. are quite nominal." In short, SALT measurably adds to the security of the United States by improving the survivability of the U.S. strategic deterrent. It does so by limiting Soviet developments that would add many thousands of additional warheads to the Soviet threat and by leaving us free to make those changes that protect our retaliatory forces.

Ironically, it is the fact that some new nuclear weapons programs can continue under SALT II that create another type of concern with regard to the effects of arms control efforts. Sincere supporters of arms control decry the fact that SALT does not go further and even impose a moratorium on any and all new nuclear weapons programs.

I can sympathize with their view. I personally would have preferred to see an agreement with more drastic cuts and more inhibitions on nuclear weapons. I also feel that the dissatisfaction expressed by supporters of arms control can be constructive to the extent that it leads to prompt efforts to achieve more drastic cuts in and controls over nuclear arms. But I would ask them, as I would ask critics on the other end of the spectrum, to recognize that any negotiated agreement must be a compromise—both with the other side and within our own government.

We have had to recognize that the Soviets won't accept provisions that would trim the respective force structures to the taste and to the unilateral advantage of the United States. They won't scrap their big ICBMs while we insist on unlimited range cruise missiles on heavy bombers and on no controls on our nuclear forces in Europe that can destroy Soviet targets. Nor, given their heavy responsibility for our military strength, can the Secretary of Defense and the Joint Chiefs be expected to rely solely on arms control to preserve our deterrent forces.

In addition, the kinds of limits that can be written into a SALT agreement are only those that can be verified. As a matter of law, and as a matter of logic, controls can't be adopted, no matter how desirable they might be in theory, unless you can be sure you will know they are being met.

Any arms control treaty must recognize conflicting views and conflicting interests. The result cannot be expected to fit anyone's ideal. But I am convinced from hard experience that no more far-reaching treaty could, at this time, have been negotiated and that if this treaty is rejected or drastically altered, there is no realistic chance that a better treaty will be negotiated in the foreseeable future.

Through the Protocol and the Joint Statement of Principles, the road is cleared to

greater progress in future SALT negotiations. The Protocol buys us time to decide whether our security would be increased or diminished by deployment of mobile launchers of ICBMs and long-range cruise missiles on ground or ship launchers. The Joint Statement sets the terms of reference for SALT III. SALT II is thus the indispensable foundation for further measures of strategic arms control.

As I mentioned earlier in my statement, the SALT II treaty must initially be examined in terms of the effect of its detailed provisions on our national security. Its foreign policy implications, however, are also relevant to this Committee's deliberations.

Previously, witnesses critical of the treaty have suggested that the uniform support for its approval strongly voiced by the heads of government of our Western European allies does not reflect support of the specific terms but rather stems from their concern about the political repercussions of the treaty's rejection. Because of the continuing consultations with the North Atlantic Council during the course of the SALT II negotiations, I know personally that our allies are fully aware of and in favor of the treaty's detailed provisions. There is no basis for the contrary assertion made in a paper presented a few months ago by the group known as the Coalition for Peace Through Strength. The prediction in that paper that, because of SALT II, the countries of Western Europe may choose the option of "an accommodation with the Communist bloc" is both absurd and irresponsible. Other suggestions that NATO governments support the SALT treaty publicly but oppose it privately demean, I believe, both the independence and the integrity of alliance leadership.

The other countries of the world also have a stake in the control of military competition between the two nuclear superpowers. The spectre of nuclear war threatens their own existence. And they recognize the grave risk that nuclear weapons will proliferate if the arms race rages unabated. The countries of Eastern Europe would see any intensification of the U.S./Soviet confrontation as a cause for despair because of the certainty that the Soviet net would tighten.

The current Soviet leadership sees SALT and the SALT process as the cornerstone of the U.S./Soviet relationship. Success in SALT won't guarantee detente. Its collapse, however, would make detente impossible. If, after amost seven years of negotiations, the Soviet leadership should now see the U.S. turn away from an agreement that would limit nuclear weapons to the mutual security of both sides, they could be expected to see little chance for any improvement in relations or any future other than constant confrontation. Their stake in SALT, their interest in its continuation, today must be considered by them in decisions on Soviet international conduct.

The SALT II treaty won't solve all our foreign policy problems and meet all our security needs. It is, however, an indispensable component in a realistic foreign policy and a sound step toward greater national security.

RICHARD J. BARNET

Richard J. Barnet is a Senior Fellow of the Institute for Policy Studies, an independent center in Washington, D.C. devoted to research on public policy questions, which he helped to found in 1963. He served as co-director of the Institute until 1978. During the Kennedy Administration, he was an official of the State Department and the Arms Control and Disarmament Agency and a consultant to the Department of Defense. Since the late 1950's he has been a student of U.S.-Soviet arms negotiations and wrote a study of the early postwar negotiations entitled, *Who Wants Disarmament?* (Beacon Press, 1960).

Mr. Barnet is a graduate of Harvard College and Harvard Law School. He served in the Army as a specialist in international law and has been a Fellow of the Harvard Russian Research Center and the Princeton Center for International Studies, and a visiting professor at Yale and the University of Mexico.

Mr. Barnet's articles have appeared in *Harper's, The New York Times Magazine, The New Yorker, Science, Foreign Policy, The New Republic,* and *The New York Review of Books,* and in numerous scholarly publications. He is the author of several books, including *Intervention and Revolution* (New American Library, 1968), *The Economy of Death* (Atheneum, 1969), *Roots of War* (Atheneum, 1972), and co-author (with Ronald Müller) of *Global Reach: The Power of the Multinational Corporations* (Simon & Schuster, 1974); and *The Giants: Russia and America* (Simon & Schuster, 1977).

TESTIMONY OF RICHARD J. BARNET, SENIOR FELLOW, INSTITUTE FOR POLICY STUDIES, BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE JULY 16, 1979

I am honored to be asked to present my views to the Committee at this critical point in your deliberations. The SALT II treaty is before you at an historic moment. The United States and the Soviet Union are about to take some major forward steps in the arms race—with or without SALT. The Congressional Research Service of the Library of Congress recently compiled an imposing list of strategic weapons that can be built lawfully under the SALT II agreement and which, in the present climate, no doubt will be built. The Trident, the M-X, and the other technological "improvements," as they are mistakenly called, are creating a much more dangerous military environment.

Not only is the military environment becoming much less stable but the political environment as well. The world is no longer held in check by the projection of American power in the way it was during the first postwar generation. American power has declined from that extraordinary moment when we were the only undamaged economy emerging from the Second World War, the only possessor of atomic weapons, and our dollars were better than gold. That decline was inevitable. No other power can now play that role, and there is no evidence that any other power believes that it can play that role or seeks it. But the consequence of the enormous shift of power in the world is instability and violence and increased dangers of confrontation between the United States and the Soviet Union. The war no one wants will come, in my view, only if two pre-conditions are met.

One is the development of hair-trigger counterforce technology that puts pressure on military planners on both sides to insure that their weapons are not caught on the ground. That means a world of more weapons rather than less and one in which weapons are fired sooner rather than later. It is a world in which the time for decisions about war and peace becomes dangerously compressed and the chances of fatal human error multiply. That world is now being created—with or without SALT II.

The other pre-condition for a nuclear war is a political confrontation in which nuclear weapons might credibly be involved. Such life and death struggles over which the shadow of nuclear weapons hangs face us across the world—the Middle East, despite great efforts still a danger point; southern Africa, Iran, and the Sino-Soviet dispute. The risk that the U.S. and the Soviet Union will be sucked into a fateful confrontation around one of these struggles is increasing. If neither the arms race nor U.S.-Soviet competitive interventions can be controlled, the outbreak of a nuclear war involving both is inevitable.

Judged by the magnitude of the crisis of national security we face the SALT II agreement is totally inadequate. It will not stop the arms race. It does not stop the dangerous development of "first-strike" counterforce technology; indeed the most destabilizing developments occurred during the long years in which the "SALT process" was unfolding. The SALT agreement does not call for the destruction of missile stockpiles, except for 250 obsolete Soviet missiles. There is evidence that the "SALT process" accelerates weapons stockpiling on both sides in anticipation of an agreement. To secure the acquiescence of the military in both countries and to secure ratification in the United States, weapons developments have been approved which increase the dangers of the arms race more than the minimal agreements reduce it. It is extraordinary that almost ten years of negotiation have produced so little.

The SALT agreement, in my view, raises two overriding questions. But the one that is now most often asked, "Will the treaty leave the U.S. number one?" is meaningless. Stockpiles are so high, destructive power so enormous, that the notion of "superiority" which had a real meaning in the days of U.S. nuclear monopoly and near-monopoly is an empty word today. There is no way a Soviet leader could confidently calculate victory in today's world with or without SALT II.

We need first to understand what the agreement is and what it isn't. It is not disarmament, certainly. It is not even arms control for it does not touch the most dangerous aspects of the arms race. It is an effort at joint arms planning by the U.S. and the Soviet Union. A highly complex document has been painstakingly negotiated over a very long time which represents a consensus on the new direction the arms race should take. It is, arguably, a better direction than that which would result from market forces and domestic politics.

The second question is the crucial question of conscience which on the day of the ratification vote every senator must answer for himself—and for his constituents and his children. Will the coming into effect of SALT II make war more likely or less likely? That is the fundamental issue. In my view the provisions of the SALT treaty themselves because they permit so much of the arms race to continue, would not substantially reduce the dangers of war. The managed arms race under SALT is a more dangerous race than the unmanaged arms race of the last ten years, although the chances are that without SALT the new arms race would proceed even faster.

Claims for what is called the "SALT process" have been much exaggerated. Indeed, a strong case can be made that in the last few years the SALT negotiations have exacerbated tensions the two superpowers. The unfavorable political climate for the development of better U.S.-Soviet relations that has developed in the United States is a predictable, perhaps inevitable, consequence of the process of negotiation. One reason why the opposition to SALT is more enthusiastic than the support is that the goals of SALT are not clear. The opponents can rightly note that any agreement, however minimal, raises the emotion-laden issue of whether we can trust the Russians. But the supporters cannot maintain that the arms race will be stopped or "capped," since the technological competition is intensifying. The military buildup of each adversary can be interpreted by the other in different ways—either as an effort to amass "bargaining chips" for future negotiations, or as an indication of lack of faith in the possibilities of negotiation, or as a strategy of increased reliance on military power to achieve political goals. The most important function of arms agreements is to reduce the element of ambiguity in U.S.-Soviet re-

lations and to clarify intentions in such a way as to build confidence and political support in both societies. This the "SALT process" does not do.

Whether any agreement on arms is feasible depends upon the intentions of the two powers. Most Americans assume that U.S. intentions are clear, and they focus on Soviet intentions. Indeed, the debate over SALT really comes down to a disagreement about Soviet goals, a fact that tends to be masked by discussions of numbers, throw-weights, and other technical details. American opponents of an agreement believe that this country should not accept limitations on the right to acquire, test, deploy, and use weapons (unless the agreements are clearly one-sided) because Soviet leaders are bent on expanding their military power one way or another. Creating uncertainty, to their mind, is the best guarantee of security. They would argue that stabilization of the nuclear arms race decreases uncertainty, creates illusions for Soviet leaders that they might bring off a successful surprise attack and thus increases the risk that they may resort to war or the threat of war.

The other view, which I share, is that Soviet leaders have no such fixed intentions. There are already enough nuclear weapons in the world to make any rational leader sufficiently uncertain about the consequences to his own society of starting a nuclear war that he would never launch one as an instrument of national policy. But increasing the level of uncertainty increases the risk of preemptive war, because it creates a tense military environment in which Russian fears about what the United States is about to do may cause them to strike first. In the nuclear age no one chooses war over peace, but there are circumstances in which one might well choose war now over war later if those were believed to be the only choices.

The opponents of arms reduction believe that military power is assuming an ever greater importance in Soviet policy because the Soviet system has lost some of its attraction for other countries and military power is the best, perhaps the only, vehicle available for them for projecting their influence. This leads to a belief that the Soviets are uninterested in any significant arms reduction except under clearly one-sided agreements and that, accordingly, it would be unsafe for us to commit ourselves to that effort. But a surer guide for a national U.S. policy than such speculation are these considerations: the historic concern of the Russians with territorial security, their growing apprehension about the de facto NATO-Chinese alliance, and the fact that their weapons programs, military doctrines, and political uses of military power have been imitative of and responsive to U.S. programs, doctrines and operations. The role of military power in Soviet foreign policy will be determined, to a very great extent, by what other powers, principally the United States and China, do.

There is a third view of Soviet intentions, which says that since those intentions are unknowable they should be ignored. The classic military approach is to prepare against capabilities and assume the worst intentions. But that is a prescription for an unending race, and almost certainly for a war, since in that situation each side will consider itself secure only if it makes pessimistic assumptions and ensures that its capabilities exceed those of its adversary. What one side regards as a responsible "defensive" response to a threatening military posture looks to the other side like a preparation for aggressive war or political blackmail.

There is no way, then, of avoiding a serious assessment of Soviet intentions in developing a sensible arms policy. Such assessments are in fact always made, either explicitly or implicitly. To adopt either the view of the pessimists—that the U.S.S.R. will relentlessly project its power by military means until opposed by equal or greater power—or the view of the optimists—that it is a status quo power beset with internal problems—is unwise and unnecessary. A serious view of Soviet intentions must be dynamic, that is, it must try to understand the relationship between Soviet decisions and external pressures, particularly the impact of U.S. policies. Arms reduction agreements should be designed to create controlled situations for testing intentions. In order to do so, they must be sufficiently broad and unambiguous to provide a framework for a significant demilitarization of the relationship between the United States and the Soviet Union that is quite different from the regulated arms race provided by SALT II.

To create situations for testing intentions requires a hypothesis about Soviet behavior from which to start. What do the Soviets want? Their 62-year history suggests that, like the leaders of most nations, the managers of the Soviet state have a hierarchy of foreign policy objectives. The most basic is to safeguard the physical security of the czarist empire they inherited. The next is to maintain control over the ancient kingdoms of Eastern Europe and the half of Germany they occupied during the Second World War. The third is to project their political influence in the world on a scale equal to the United States, and some day to become the number one power. There is no clash between the first objective and American security. It is a long time since this country defined its security as requiring the return of capitalism to Russia. As for the second objective, the situation in Eastern Europe is not ideal from a human rights standpoint, to say the least, but it does not threaten the United States, nor is there any way that the intrusion of U.S. military power could change the status quo. That was shown long ago in the streets of Budapest, when it proved impossible to turn Captive Nations Day rhetoric into an effective American foreign policy. The real clash between Soviet and American objectives concerns the role the Soviet Union aspires to play on the world stage.

Ever since the end of World War II the Soviet Union has tried to establish its legitimacy as a world power. In the beginning the strategy was merely to assert the claim. "The Soviet Union should take the place that is due it and therefore should have bases in the Mediterranean for its merchant fleet," said Foreign Minister Vyaceslav Molotov at the London Foreign Ministers Conference in 1945. In the same period they also asked for a share in the occupation of Japan. When the claims were summarily rejected by the West, noting more was said about them. The early crises of the cold war—the Czechoslovak coup, the tightening of control over Eastern Europe, the Berlin Blockade—were attempts to consolidate power over the World War II conquests.

As the Soviet Union recovered from the war it became more active abroad. In the Khrushchev years (1957–63), a time Zbigniew Brzezinski has called the era of premature Soviet globalism," the Soviet Union gave aid to such farflung regimes as Sukarno's in Indonesia and Castro's in Cuba. At the same time, a general support for "wars of national liberation" was proclaimed, although actual support was selective and, except for Vietnam and Cuba, largely ineffective. The culmination of the era of "premature globalism" was the Cuban missile crisis, which had two objectives: first, to defend the communist regime 90 miles from Florida with the same sort of bold stroke the United States had used many times to protect Turkey, Iran, and Lebanon, its clients close to the Soviet Union; second, to proclaim that the era of U.S. nuclear superiority had come to an end. The Soviets could now directly threaten U.S. territory and bring their missiles to bear on political crises as the United States has done so many times. The move succeeded in its first purpose and failed in its second. Indeed, the confrontation dramatized the reality that the United States had a huge military superiority which, American officials immediately made clear, they intend to keep. Secretary of Defense Robert McNamara told a Senate Committee in 1964 that "any disarmament treaty or agreement . . . that we participate in must be one in which we maintain what I call our favorable differential balance of power." The theory remained that U.S. strategic power to threaten the Soviet homeland and the capacity to project conventional forces to every corner of the globe were necessary to contain Soviet expansion.

The Soviets immediately launched a military buildup that was designed to erase the American political advantage, and to make sure, as their diplomats kept saying, that future confrontations would never be resolved in the same humiliating way. In the intervening years the military buildup has continued at a steady pace; Soviet rhetoric is much more moderate than in Khrushchev's time, with the former chairman openly condemned as an adventurer; and as the Soviets have built up their missiles they have stopped rattling them. But they are exhibiting a greater willingness to project power at a distance where the opportunity presents itself, notably in Africa.

Just as in military hardware, the Soviet Union has been three to five years behind the United States in developing major new weapons systems, so in acquiring the political accoutrements of superpower status—"show the flag" naval power, proxy armies, military aid—the Soviets have been imitators. Compared with the far-flung network of bases, alliances, aid programs and covert operations maintained over the years by the United States, the Soviet effort is modest; but we should assume that in the present environment it will increase. Like their now impressive military forces, the increased propensity to take political risks in, say, Africa, are designed to make a statement: anything the United States can do, we can do—perhaps not on the same scale, but for the first time we are now in the same league.

As Soviet military power has increased, their political problems have multiplied. The Chinese enmity is an obsession and the U.S.-China rapprochement poses the nightmare of a two-front war. The splintering of the international communist movement has made it clear, if illusions ever existed, that the triumph of political movements in other countries calling themselves Marxist does not necessarily add to the power of the Soviet state. The record of Soviet expulsions from the Middle East and Africa—Egypt, Sudan, Somalia—suggest that even in areas of great political vulnerability for the United States, the Soviet Union finds it hard to triumph.

There is nothing to suggest from the history of the arms race so far that either a weapons buildup by the United States or the achievement of marginal arms control arrangements will cause the Soviet Union to downgrade the importance of military power in its foreign policy. Indeed, the contrary is true. It is vital to U.S. security and to its economic health to induce the Soviet Union to accept a significant demilitarization of super-power relationships, because such a step is crucial for reducing the growing risks of nuclear war. It is also a precondition for limiting the worldwide arms traffic and the proliferation of nuclear weapons.

A negotiating framework for demilitarizing the U.S.-Soviet relationship and for reversing the arms race would need to have clear goals and make explicit recognition of the interrelatedness of such crucial matters as strategic weapons, conventional forces in Europe and overseas bases. Such a framework would really represent a return to the ap-

proach embodied in the McCloy-Zorin Agreement of Principles of 1961 for staged comprehensive disarmament agreements leading to "general and complete disarmament." That approach was abandoned in the mid-1960s in favor of piecemeal negotiations on strategic weapons systems and later on conventional force reductions in Europe, because broad agreements were considered visionary or worse—cynical propaganda. Step-by-step negotiations were considered the "serious" way to confront the arms race. When the Soviets stopped talking about "general and complete disarmament" and entered negotiations for the control of ICBMs, they demonstrated, as Henry Kissinger and others used to say, that they were "serious." But for many reasons—the relentless pace of technological development, the volatility of political moods in the United States, the cumbersome Soviet bureaucracy—small agreements may turn out to be more visionary than substantial agreements, that is, agreements with benefits for both sides that clearly outweigh the risks, and with the ability to communicate unambiguous intentions.

Nevertheless, for all its inadequacies, I believe that rejection of SALT II by the Senate will increase the risk of war for reasons having nothing to do with the text of the treaty, and for that reason I recommend ratification. My reason is a simple one. In the present state of relations between the United States and the Soviet Union there is no way to arrive at a meaningful measure of arms control, let alone substantial arms reduction, which is now our only road to national security, without ratifying SALT. If it were politically possible to draft a new and better treaty in the Senate which the Soviets would sign, I would favor it. But it is not possible.

I am not reassured by the sudden conversion of long-time advocates of ever greater military spending into apostles of disarmament. Many of these national leaders who now oppose SALT because it does not go far enough had the opportunity for a generation to press for disarmament and genuine arms control and instead they pressed the futile policy of seeking security through terror and opposed every constructive step towards reversing the arms race. The sense of the Senate could be expressed in the strongest terms that the SALT II treaty should not be allowed to stand for more than a few months, that it should be immediately superceded by a negotiated moratorium on new weapons and a program of substantial reductions. But the tactic of defeating an inadequate treaty by writing a better one at this late date, knowing that the Russians will not sign it under these conditions, should not be permitted. The result will be a negotiating atmosphere in which the Soviet Union for reasons of pride and reasons of suspicion, will hesitate about all negotiation. When we meet again at the negotiating table, if we ever do, the problems will be far worse because of the new weapons and the political environment in which to negotiate will be worse.

Those of us who believe that the treaty does not go far enough have to judge what will take its place if it is rejected. The answer over the next two years at least is not a better agreement but no agreement. Major weapons programs will go forward in both countries. The Soviet Union will proceed to MIRV its remaining un-MIRV'd missiles. The U.S. will develop the dangerously destabilizing technologies, including the M-X missile which greatly complicates the problem of verification. Most important, leaders in both countries will lose hope in the possibility of controlling the arms race through agreements.

The only road to national security is to stop and to reverse the arms race. We have the technological capability to match any conceivable Soviet buildup. But we cannot continue to spend hundreds of billions on the military without risking mortal danger to our economy which is the foundation of our national strength. In a time of austerity, increasing the military budget while the domestic programs are being slashed raises the issue, not of guns versus butter, but of missiles versus the local police and firefighters. The distortion of priorities has become so acute that as the Administration counsels a three percent "real" increase in military spending each year, essential services in every major American city are being cut. To suggest that the threat of "Finlandization" in Europe is a greater threat to the people of Chicago, Cleveland, Los Angeles or Detroit than the loss of social services, the breakdown of the education system, the rise in crime, the alarming increase in infant mortality, the impending municipal bankruptcies, or the failure to invest in an alternative energy system is to distort national security strategy, and to misconstrue the meaning of "strength."

The same is also true of the Soviet Union. For both of us the return on investment in the military is declining. The heavy burden of the military preempts not just scarce capital, but political energy and managerial skill needed to address the real threats facing Soviet society. Because of the military burden, the Soviet Union is unable to develop its productive capacity. Instead of developing a domestic capacity to satisfy the sharply increased expectations of Soviet citizens for a better diet and a better standard of living, Soviet leaders find themselves importing grain to support the new meat-eating habits of the population and deferring critical investments in the engines of the economy.

We can spend almost two trillion dollars in the next ten years in pursuit of a "defense" that no longer exists and they can spend an equivalent sum, and in the end both will be poorer and more vulnerable because the level of destructive power in the world will have gone up. Neither will have a secure defense because there is no defense in the nuclear age.

The Soviet leaders, I believe, understand this fact of life. For the Soviet Union SALT is a political symbol. If this treaty cannot be ratified, as miminal and as hedged as it is, then no agreement with the U.S. on arms is possible. The whole history of U.S.-Soviet negotiations since 1974 has given the Soviets little reason for confidence. On crucial issues the Administration has changed positions, as in the March 1977 proposals, and the Senate has refused to approve credits and most-favored-nation status which the Soviets had been led to expect. These developments, it will be said, are inherent in our system of separation of powers and quadrennial elections. They were risks the Soviets took in negotiating with us. That is true, but whatever the merits of the new negotiating positions and Senate reservations, they make up a picture from the Soviet perspective of an unreliable negotiating partner. It is not in the American interest to have the Soviet leadership conclude that negotiations with the U.S. are hopeless. Were that to happen, we would face, in my opinion, an accelerated military buildup and the possibility of a more activist foreign policy designed to break out of the increasingly isolated position in which the Soviet Union finds itself. In a world without arms control the U.S.-West German-Japanese-Chinese relationship becomes more threatening in Soviet eyes. Every missile not in the Soviet Union is now assumed to be aimed at the Soviet Union. It is not in the interests of the U.S. that Soviet leaders feel isolated or cornered.

It is not hard to imagine a better agreement than SALT II. A simple agreement that would force the two sides to choose between continuing the arms race or stopping it would be far preferable. Both the U.S. and the Soviet Union can and should establish a realistic set of common goals for substantial disarmament and demilitarization that could significantly improve the political climate, reduce the risks of confrontation, and improve the security of both the American and Soviet peoples. To create a positive political climate in which it becomes possible to reverse the arms race, arms agreements should meet three criteria. First, the agreements should demonstrably increase perceptions of security on both sides. Second, a stable new arms relationship should have clear economic payoffs for both sides. Third, the primary purpose of the agreement should be to remove ambiguities about intentions. The greatest perceived threats are not the weapons already built, although they are more than adequate to destroy both societies, but the weapons about to be built. New weapons systems convey threatening intentions and raise unanswerable questions: Are the Soviets seeking "superiority"? If so, is it to neutralize the effects of 30 years of U.S. "superiority," or do they really expect to play a similar role themselves in the next 30 years? No one can provide definitive answers about these matters. To have the questions occupy center stage is already disturbing the political atmosphere, and introducing a note of hysteria into a set of issues on which the soberest judgements must be made.

The question of ultimate intentions cannot be answered, but it can be rendered irrelevant by an agreement which is sufficiently clear and comprehensive. Within a controlled but continuing nuclear arms race there is always room for arguing that the agreement favors one side or the other. However, a freeze on all new nuclear weapons systems would make it clear that both sides indeed intend to stop the arms race.

It is in the interest of the United States to press for a halt of nuclear weapons and missile production this year. A rough balance of nuclear forces now exists—a balance which, in the view of the Administration, still favors the United States. The next round of the arms race can only work to the economic and strategic disadvantage of this country and create new perils for the entire world.

A more comprehensive agreement would have fewer exceptions and fewer technicalities. The simpler and more comprehensive the fairer it is likely to appear to both sides. It would be simpler to understand and verify. It would fulfill the primary purpose of arms agreements by removing ambiguities about intentions. I believe that a mutually agreed upon moratorium on the procurement, testing, and deployment of all bombers, missiles, and warheads for three years is in the interests of both the United States and the Soviet Union. During such a period the two sides could, I would hope, negotiate deep cuts in strategic nuclear weapons and delivery systems. Such agreements would require significant internal changes in the national security establishments of both societies, including a serious program for conversion of military industry. Such changes represent the most reliable form of verification for they require leaders in both countries to reverse major policies and to confront powerful domestic interests in order to commit the society to arms reduction. Real internal changes in the direction of peace are far more reassuring than professions of peace or agreements like SALT II that are compatible with either an intention to move to arms limitation or to a new stage in the arms race.

For those who believe that SALT II is inadequate because it does not go far enough the proper strategy seem clear. The goal should be to supercede SALT II as quickly as possible with a treaty that moves the world to real arms reduction. But the treaty

for all its inadequacies and all the exaggerated claims that have been made for it, cannot be avoided. We are limited by the history we have made. The road to arms reduction and increased security cannot bypass SALT II.

TESTIMONY OF JEREMY J. STONE, DIRECTOR, FEDERATION OF AMERICAN SCIENTISTS ON THE SALT II TREATY, JULY 12, 1979, BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS

Mr. Chairman and Members of the Committee. It is a great privilege, indeed, to appear before this most distinguished Committee of Congress, on this historic occasion, to discuss this important matter. I propose to treat the Committee invitation to appear, as I believe it was meant, as a request for my personal views.[1]

In my opinion, the American people are tired of hearing that disarmament is either at hand or around the corner but that, just now, ceilings are being put on the arms race, after which the real progress will follow. Americans are becoming cynical about the failure of the superpowers to reverse the arms race. And they understand quite well that this treaty is not really providing disarmament.

In these circumstances, the Congress's job, in dealing with this treaty—and the treaty-making process—is to shape the future rather than to massage a fait accompli. And, in this testimony, I suggest one man's analysis of how a Senate (and wider) consensus might be achieved to prevent future treaties from suffering the weaknesses of this one.

The thesis of this testimony is that there are two roads which our Government might pursue to secure, and maintain, a national consensus for arms control treaties on offensive strategic weapons. One road leads to largely cosmetic treaties which, like this one, as President Carter told Congress, "constrains none of the reasonable programs we have planned." Here pro-ratification doves support the treaty because it is a treaty, and pro-ratification hawks do so because it constrains nothing we were planning.

This is the easy path politically and bureaucratically. But it treats disarmament as a means mainly to détente, and secures few, if any, of the real potential security and economic advantages to disarmament. As progress in disarmament falls behind expectations and desires, public cynicism sets in, and the SALT process itself loses support.

There is another road upon which the Carter Administration sought to embark in March, 1977, and upon which it could, with Senate support, make a new effort with renewed determination and stiffened backbone. This is the road of major reductions in strategic weapons—reductions that would, as a by-product of lowering weapons levels, redress the asymmetries and imbalances seen by the hawks even as it made unnecessary new weapons systems opposed by the doves.

It is the thesis of this testimony that the Senate should make its mark upon this treaty, not by amending its substantive proposals, or by adopting declarations of minor significance, but by attempting to forge a new consensus about what should be done in SALT III—and then instructing the Administration and the Soviet Union, by Senate resolution, of the terms without which a subsequent treaty would not be acceptable.

TREATY IS "SOMETHING FOR NOTHING"

Let me say at the outset that this treaty is far, far more vulnerable to criticism from doves than from hawks. The strong Soviet interest in securing an agreement with the United States, for various political reasons, has led that country to agree to:

(a) greater U.S. ability to inspect and verify than would be the case in the absence of the treaty;

(b) limits on numbers of Soviet warheads per missile lower than might otherwise be maintained;

(c) lower limits on numbers of missiles than might otherwise be maintained and, indeed, reductions of 250 Soviet strategic delivery vehicles.

And this agreement has been reached without the U.S. giving up, to my knowledge, any programs which we might otherwise have desired. Thus the treaty is, from the U.S. point of view, something for nothing. The Russians have agreed to such a treaty, in my opinion, because they consider SALT to be the "spearpoint" of a detente policy. Further, they see detente as an imperative created by fear of China, and their desire to trade with the West. Moreover, the Soviets recognize that the basic momentum of their strategic program can be continued and maintained under the strictures of SALT II, notwithstanding the above limits, so their concessions are marginal in strategic terms.

I do not believe the treaty has any significant military flaw, as witness the support of the agreement by the Joint Chiefs of Staff before the Committee earlier this week.

True, the Soviet Union has permission to have 308 heavy missiles and we none—but we did not, and do not, want any;

True, the Backfire bomber is only included by letter rather than treaty, but this is a reasonable solution to a grey area of negotiation.

In these and other ways, the hawk dissenters have very little to complain about in the treaty; in my opinion, they are really concerned about the Soviet buildup of strategic weapons—not the treaty itself—and this is quite a different matter.

DOVES ARE THE ONES WITH THE RIGHT TO COMPLAIN

By contrast, the doves—though gagged by their fear of treaty rejection [2] have a great deal to complain about, in reflecting how the SALT process on offensive weapons is working out.

The SALT I (1972) and Vladivostok Agreement (1974) focused on numbers of bombers and missiles when, it was already clear, these numbers had saturated in favor of exploitation of the newest breakthrough: multiple warheads on each missile (MIRV). Now the SALT II Agreement puts an upper limit on numbers of warheads but, too late again, at a level that is basically one of saturation of the interests of either side.[3]

Meanwhile, the new breakthrough of cruise missiles has, at U.S. insistence, been embedded in the treaty rather than precluded. Just as failing to stop MIRV in earlier agreements represented a time bomb for SALT II and III, so also will the modern cruise missiles, with their verification problems, afflict future negotiations for decades hence.

There can be no doubt that both sides will be further from disarmament in 1985 when the treaty expires than they are today, just as we are worse off today than we were when negotiations for SALT II began in 1972.

The treaty permits each side to build an entirely new type of missile with up to ten warheads; this will take the United States more time than the six-year term of the treaty. Because the two sides could not agree on missile flight test bans, the treaty right to modernize existing missiles permits improvements in accuracy, and confidence in that accuracy, which are the critical strategic element of this time period. The Treaty Protocol limiting certain U.S. programs for a few years are negotiable because none of the programs in question were ready to be deployed during that period. And the Treaty Statement of Principles shows only too clearly, as does talk around Washington, that no concrete plans exist for what to do next in SALT II.

Arms control and disarmament is supposed to *do* something! It should help provide a solution to such problems as land-based-missile vulnerability. It should make weapons systems unnecessary and save money. Above all, it should reduce the risks of war and reduce the destruction if war occurs. This treaty is doing these things, at best, by saying that matters would otherwise be worse.

Arms control is not, as one Administration official suggested in a recent article, at bottom "an exercise in confidence building." High Administration officials are reduced to talking of the treaty providing "predictability"—which simply means that we have some idea of what, for the next six years, at least, the other side might do—as if this were an important arms control goal. And to saying, again, that things would otherwise be still worse. Meanwhile, other such officials talk of the permitted MX missile as providing stability—when by every ordinary meaning of the term in arms control, it provides just the opposite; what they have in mind is that it will, they think, "match the Russians." Thus even arms control language is being destroyed in the effort to paint this treaty as doing things which it patently does not.

Thus far, the SALT Agreements on offensive weapons have had little more provable effect on the course of the strategic arms race than scaffolding has on the shape of a building.[4]

In effect, thus far, the treaties on offensive weapons suggest a negotiation between two alcoholics. The addicts readily agree that they will not engage in binges which neither really had in mind—the better to persuade onlookers that they are indeed going on the wagon. But when the issue arises of putting significant restraints on their real drinking plans, they find it easy to define alcoholic content in such ways as to permit each to continue.

Thus the treaty permits the entire eight-point program of the Committee on the Present Danger, as witness Jan Lodal's article in the Winter, 1978–79 Foreign Affairs.

Still worse, as will be documented below, the effort to secure a two-thirds vote in the Senate in favor of the treaties has had, and is having, a tangible escalatory effect on our arms program. As Admiral Thomas Moorer has written about the period he was Chairman of the Joint Chiefs of Staff, the Joint Chiefs agreed to support SALT I only if:

Such things were undertaken as: "vigorous research and development programs designed to maintain technological superiority of our weapons systems; . . . [and] aggressive improvement and modernization of strategic forces . . . These improvement and modernization programs were to include acceleration of Trident construction; maintenance of the B–1 bomber program on schedule so as to provide an option to deploy the first aircraft in the late 1970's; a national command authority defense as permitted by the ABM treaty; a satellite basing program for strategic bombers; deployment of the submarine-launched cruise missile; and, finally, an improved re-entry vehicle for ballistic missiles." (National Review, June 22, 1979, p. 787)

And recently, with regard to SALT II, the Administration has been forced to commit itself to development of the MX missile without even knowing how it planned to base the missile—so strong are the pressures to reassure reluctant treaty supporters. Also, a new U.S. bomber is being encouraged by the flap over Backfire as a price for overlooking the way it enters into the agreement.

THE HAWK-DOVE CONTROVERSY

Now in order to avoid duplicating recent history, we must learn from it. What exactly do the contending "hawks" and "doves" want? Ironically, today, they are, at least on

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Footnotes at end of article.

paper, in surprising agreement: Both want "real" arms control!

In fact, the SALT II debate is not so much about the SALT II Agreement itself as it is, instead, a now pointless echo of a generation-old struggle between two schools of American strategic thought. Following the invention of the atomic and hydrogen bombs, one school of thought, often characterized as "hawkish," took the traditional military view that the danger, as before, lay primarily in the adversary which, if he could not be defeated, would, at least, have to be deterred. Adversary attack was the dominant problem in surprise nuclear attacks, nuclear first strikes, nuclear shows of force, and/or nuclear aggression against allies.

A second school of thought, often characterized as "dovish," saw the major source of nuclear danger in the arms race itself. Considering that any sane person, or plausible Government, would be well deterred by the fear of nuclear response, it saw residual dangers of "wars nobody wanted" arising from uncontrolled escalation.

Thus, while the first school was predisposed just to buy more weapons so as to stay ahead of the Russians, the second school was disposed to "stop the arms race" itself. Naturally, the two schools apply quite different yardsticks to proposed treaties, and their dialogues are therefore often dialogues of the deaf—the hawks focusing first on the relative military balance implied by the treaty, while the doves focus on its effect in restraining the competition.

In past years, U.S. superiority in the arms competition led hawks to reject treaties as unnecessary mechanisms that might just constrain us in some kind of "unilateral disarmament," without constraining the Russians. Doves, for their part, saw treaties as useful vehicles for securing at least a modicum of detente, and were prepared to take pretty much any treaty that both sides could negotiate.

POTENTIAL NEW CONSENSUS EMERGING

In recent years, Soviet progress in matching U.S. weapons levels has provided hawks with a potential regard for treaties. Treaties could in principle at least, redress the very imbalances of concern to the hawks. It was with this in mind that Senator Jackson made a number of disarmament proposals.[5] Ironically, much recent complaint from Senate hawks about this treaty, such as that of Senator Jake Garn, is based upon the view that arms control has not done enough, and should do more.

At the same time, traditionally pro-arms control Senators, such as Senators McGovern, Hatfield, and Proxmire, have recognized that—especially in an age in which detente has gone about as far as it is going—treaties must be held to a higher standard than that of basically cosmetic agreement only. And they feel that this is especially so if hawkish support for treaties is purchased with commitments to weapons systems they consider wasteful. So they are also complaining that arms control is not doing enough to carry its freight.[6]

For all these reasons, our Nation ought to be ready, in logic and in politics, for an aggressive policy of hard-nosed bargaining for real disarmament subsequent to the ratification of the treaty. And this is what I propose

In 1977, to its credit, and to the credit of the United States, the Carter Administration proposed sharp cuts. It sought to forge precisely the kind of coalition here advocated—disarmament for the doves but disarmament of specific kinds desired by the hawks. The Russians objected violently, but there was one reason at least that does not now apply. The Russians rightly considered themselves near the end of negotiations on SALT II and were unwilling to start on new proposals in the midst of that negotiation.[7]

The Administration should try again with new far-reaching proposals and the Senate should pass resolutions of instruction that will give these proposals momentum and bargaining leverage.

Would it work, and could the Senate really help? Nothing is certain. But considering the current alternatives before the Senate reinforces the idea that this is the best course.

SENATE OPTIONS FAVOR A RESOLUTION OF INSTRUCTION

The Senate has before it three approaches. It can:

(a) Adopt amendments, reservations, interpretations, and resolutions concerning the treaty itself but which are of such a nature that they do not require Soviet concurrence or do so on noncontroversial issues;

(b) Adopt amendments to the treaty that would require renegotiations;

(c) Pass resolutions, in conjunction with ratification of the SALT II Agreement, that will attempt to shape the future course of negotiations in SALT III.

Option (a), restricting the Senate's action to noncontroversial issues, simply guarantees that nothing substantial will be secured.

Option (b), amending the treaty in such a way as to require renegotiation, is more likely to undermine our bargaining position than to enhance it, since it virtually requires the Soviet Union to complain bitterly for months before reentering negotiations. And there is no reason to believe that there is bargaining leverage left in this treaty yet to be exploited.

But, option (c) a resolution of instruction for the future, that captured the support of a majority of the Senate, including both hawks and doves, would provide a vehicle upon which the Administration might rely in hanging tough on far-reaching reductions that would, at the same time, redress instabilities.

A similar resolution of instruction was passed by the Senate on September 13, 1972 in conjunction with SALT I. The Jackson resolution (S.J. RES. 241, 92nd Cong., 2nd sess.) passed by 56–35. The resolution requested the President to seek a future treaty that, inter alia, would not limit the United States to "levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union."

What effect this resolution had on the subsequent negotiations is a subject of debate. Perhaps it only led the superpowers to seize upon the cosmetic fact that if numbers of bombers were added to the earlier limits on missiles in the 1972 Interim Agreement, the two sides would be close enough in overall numbers of missiles and bombers to reach agreement on a common bound of 2,400 strategic delivery vehicles.

But even if that resolution had, in retrospect, only limited significance, it does not mean that the Senate could not now have still more influence with some other, perhaps more precisely formulated, resolution. And it is obvious, anyway, to the Executive Branches of both superpowers that the U.S. Senate is becoming impatient with the present course of things. They know that something new must be added to get subsequent approval of a future treaty. Should not the Senate announce what this new element might be?

THE COMMON GROUND: SUSTAINED AND SHARP REDUCTIONS, IN PARTICULAR, OF MIRVED LAND-BASED MISSILES

But is there scope for agreement between hawks and doves upon what they would like next to do? I think there is.

MIRV (Multiple Independently Retargetable Reentry Vehicles) is a root cause of the concern of both hawks and doves. Introduced by the United States in 1970, and by the Soviet Union in 1975, MIRV makes it possible for a single missile to destroy several missiles on the other side. Soviet exploitation of this new technology puts it within reach, on paper at least, of the ability to destroy U.S. land-based missiles with only a fraction of its land-based force. That such an attack might be threatened, implicitly or explicitly, or even occur as a show of force, is a major current preoccupation of the hawks.

While denying the reality and political relevance of these attack scenarios, doves have their own reasons for concern about the same development. The current Administration planning is to replace the fixed Minuteman missiles with the MX missile in one deployment or another, probably a shell-game or trench deployment. Doves believe:

(a) That the missile will be too expensive, as well as unnecessary—a $35 billion down-payment on a new round of land-based missile arms race;

(b) That with increasing numbers the Soviet warheads MX will be, conceptually, no less vulnerable to Soviet attack than the existing land-based missile force, and will, therefore, tranquilize none of the fears thus far raised;

(c) That MX will be an offensive, as well as defensive, missile, thereby encouraging the Soviet Union to set its missiles on a lighter, rather than a heavier, "trigger," and/or to redeploy its land-based missile force, precluding for many future years, some agreed halt in the constant redeployment of land-based missiles;

(d) That, overall, two opposing missile forces, each capable of destroying the other's entire land-based force with a fraction of its own, will increase the chances of a war nobody wants.

In short, both hawks and doves would, today, prefer a return to the pre-MIRV period, at least insofar as land-based missiles are concerned. In such a pre-MIRV period, no one missile could destroy several and, hence, there would be no particular advantage in missiles firing first because, for each missile wasted in firing, at most one opposing missile would be destroyed.

Now a complete return to the pre-MIRV era is obviously going to be difficult. But sharp reductions in MIRVed land-based missiles are by no means impossible. The SALT II Agreement provides for each side to have 820 fixed land-based missiles with MIRV, and, in so doing, it confirms that we have the means by which we can verify which Soviet missiles are counted against that 820 total, and which need not. Thus SALT II provides, in particular, a method for verifying reductions of that number.

SALT III would go a long way toward satisfying the interests of hawks and doves if it would provide for sharp reductions in that 820 limit, with a view to the ultimate elimination of MIRVed land based missiles. Such a program would not give up the triad concept—since several hundred unMIRVed land-based missiles would remain on both sides. But it would moot the issue of having an entire land-based missile force vulnerable to a fraction of the other's land-based force. And it would thus make any concerns about reciprocal fear of attacks by land-based missiles upon each other transitional.

The reduction in land-based missiles, coming over about a decade, would be in the narrow military interests of both sides, as well since land-based missile forces are becoming increasingly unreliable as second-strike (survivable) weapons in any case. Each side should want to diminish its present degree of emphasis on such land-based weapons, while decreasing the other's ability to attack them.

Unfortunately, the Administration position, at present, is to try to use SALT to move in the opposite direction. In what is surely one of the poorest arguments ever made in the strategic arena by an Administration, the President told Congress:

Footnotes at end of article.

"Without the SALT II limits, the Soviet Union could build so many warheads that any land-based system, fixed or mobile could be jeopardized."

But, obviously, no multi-billion dollar strategic weapon system should be based on a piece of paper, certainly not a piece of paper that could be abrogated by the Russians. Most bizarre of all, this particular piece of paper expires in 1986, before the MX will be even initially deployed. No good can come of purchasing systems that will require our negotiators to seek unilateral Soviet concessions in subsequent negotiations, so as to keep our weapons system viable.

Thus, instead of rushing to deploy the MX missile, and then begging the Russians to keep it viable, we should make a major effort in SALT III to make MX deployment unnecesary. We would do this by negotiating a sustained and continuous process of reductions, in particular of land-based MIRVed missiles.

Whatever the concerns of hawks and doves, they can, in principle at least, be resolved by suitable disarmament agreements. Every wobbly table can be made stable by a round of cutting off of legs; we need not always buildup to seek stability.

If the SALT II Agreement has any advantage, it is precisely to provide a context of agreed definitions and background in which such subsequent negotiations take place. But unless a consensus of hawks and doves in the Senate pushes a major effort to secure such reductions, history suggests they will not take place.

Let me emphasize that, while we need a consensus of hawks and doves to get the SALT process moving, the road of progress in SALT reductions is not that difficult. We ought not despair at the present inability to make progress.

For example, using the SALT II treaty to provide agreed definitions and qualitative limitations, one could embark on SALT III by negotiating a single number. Each side would agree to reduce its agreed number of strategic delivery vehicles (2,250), and its MIRV limits also, by an agreed percentage each year, e.g., 10%, for a number of years until, for whatever reason, the agreement had to be modified. This method, called Percentage Annual Reduction (PAR) would, I believe, have various specific advantages besides simplicity commending it to: hawks, doves, strategists, Presidents, the Defense Department, the Senate, the Armed Services Committee, the Russians, and others. I attach a relevant article from the Washington Post Outlook section for those who want to pursue it. But perhaps Senators might want to look at the attached PAR chart for a second to see also why doves have a right to complain about the SALT II Agreement.

The post-World War II buildup in strategic delivery vehicles is compared with what would happen if a 5% reduction each year went on for a generation or more. What has happened in the last thirty years may take many more decades to reverse, even if we start now.

AND IF WE FAIL?

It is only to clear that reductions in strategic weapons cannot be secured by doves alone. Therefore, if it is impossible for hawks and doves to agree on a program of subsequent real reductions—as here proposed—these reductions, patently, will simply not occur.

In the wake of such a failure, I predict that SALT on offensive weapons will self-destruct by 1985. Doves would return to urging a unilateral policy of "buy only what you need." And since the U.S. already has so much nuclear fire power, squirreled away in so many ways, public support for constant additions to our stockpiles would wane. In this case, the hawkish concern for keeping up with those nuclear Joneses on the other side of the world would not be assuaged. Instead, the domestic debate would be increasingly polarized. A consensus would disappear, not only for SALT negotiations, but also for major additions to our strategic posture.

Worst of all, our Nation would then face the prospect of continued reliance on deterrence for its safety for generations hence. Hanging over us, for decades and decades, would be the possibility that—notwithstanding the highest quality deterrence achievable—a nuclear war that nobody wanted would nevertheless occur, through miscalculation and escalation. Our entire Republic could then disappear in 30 minutes. As I advised the Committee in hearings on March 16, 1977, this probability may be on the order of .5% to 1% a year.

We—and the Russians—are uniquely vulnerable to destruction. Unlike the Latin Americans, the Africans, and many Asians, we and the Russians (and the Europeans) are living dangerously on the edge of a nuclear abyss. While strategists argue the finer points of "who is ahead," the truth is that both sides are falling behind.

The Founding Fathers must be rotating in their graves at the diminution in our security that has occurred in the last thirty years. To maximize the likelihood that our Nation will reach its 300th and 400th birthdays, the disarmament process has got to be started. I would therefore hope that the Senate could rise to the occasion and formally announce in a suitable resolution the already existing latent consensus on pointing the negotiations in the direction of a disarmament that is both real and strategically meaningful. [Illustrations mentioned, not printed in the Record.]

FOOTNOTES

[1] This course is also indicated by time constraints precluding the circulation of the written document inside our group, but even more so by the fact that our Federation of American Scientists members—while largely agreed on the underlying strategic facts—are understandably divided on some tactical issues in the shifting political context in which the ratification debate is taking place. However, the major policy conclusion of what follows was, in fact, approved without dissent by our policy-formulating body, the elected National Council, in an editorial of our Public Interest Report of March, 1979, which I have appended to these remarks.

For the record also, these personal views are based on observing and studying the arms race since 1962, for one or two year stints at such institutions as the Hudson Institute, the Harvard Center for International Affairs and the Council on Foreign Relations, and, subsequently, for the last nine years, as Director of the Federation of American Scientists, a public interest civic organization of 5,000 scientists, founded in 1946 by atomic scientists in their efforts to control the bomb they had created. During this period, I have authored two books, various articles, and have functioned as the editorial writer of the FAS Public Interest Report in drafting and catalyzing what consensus exists among us on science and society issues such as this one. My Ph.D. is in mathematics.

[2] An example of this fear was a letter to the New York Times of April 3, 1979, in which eleven arms control specialists condemned "poormouthing" the SALT II Agreement and listed its advantages without significant qualification. (The signers were members of FAS, including seven Sponsors; ten other FAS officials, including eight elected Council Members, responded in a letter printed in the New York Times on April 29, 1979.)

[3] Against a Soviet Union with only about 100 significant cities, we have 10,000 warheads at the ready—or one hundred to one—and this number will rise to more than 12,000 during the period of the treaty. This simple "overkill" calculation may seem oversimplified, but a factor of one hundred provides a lot of room for error! Meanwhile, the Soviet Union has 5,000 warheads which could rise, under the treaty, to 10,000.

Under these circumstances, a kind of "saturation parity" exists in which warheads are ample for city attack and deterrence. (As soon as their accuracies improve, which is simply a question of time, the numbers of warheads already existing on each side will be ample also for attacks on the fixed land-based missile forces as they presently exist.)

[4] This situation is in marked contrast to the success of the Atmospheric Test Ban in preventing radioactive pollution of the atmosphere, and the success in the ABM treaty in cutting off a new (defensive) dimension in the arms race. But it resembles the Nixon Administration Threshold Test Ban Treaty which set the level of underground tests at 150 kilotons—a level high enough to prevent any significant complaints from either side's defense ministry—simply and solely to get agreement, and without any justification from verification considerations.

[5] For example, March 29, 1971 (S4035), a proposal that would have stopped MIRV deployments; April 23, 1974, a proposal that would have limited ICBMs to 800, submarine-launched missiles to 560, bombers to 400 and provided for equalization of throw-weight.

[6] Hawks who, heretofore, often assumed that defeat of the treaty would rouse the Nation to procure felt-to-be necessary weapons systems may be having second thoughts as to whether such a defeat would lead Americans to get mad at the Russians and buy more weapons, or just to get mad at each other. Meanwhile, those doves who assumed that MX would be easier to defeat in the context of the treaty, rather than in its absence, may also be uneasy following the President's speech tying MX to SALT. Thus a shared perception that ratification could lead to more weapons than defeat is providing a slight backlash in position for both hawks and doves.

[7] One example of this was Brezhnev's responding speech in Tula when he said the U.S.S.R. "is prepared to go further in limiting strategic armaments, but first one should consolidate the gains already made, all the more so since the Interim Agreement expires in October this year. Then one could go directly into negotiations on more far-reaching measures."

[From the Washington Post. Dec. 31, 1978]

AN ARMS RACE IN REVERSE

(By Jeremy J. Stone)

The United States and the Soviet Union are now in the final throes of negotiating a second strategic arms limitation (SALT II) agreement. Soon the Senate will debate its ratification.

But SALT will not end with SALT II. And if it did, SALT II would not, by itself, be worth very much. Senators will be forced to ask—and all observers will want to know—to what kind of far-reaching agreement might SALT II lead.

As the SALT negotiations have amply proven thus far, it is no easy task to satisfy all the participants and institutions here and abroad. Ironically, the simplest conceivable treaty may satisfy all the actors best. Still more ironically, the approach underlying this simplest treaty might be described as running the arms race in reverse.

SALT is already structured around the fortuitous fact that—measured in a certain easily verifiable way—both sides have about the same number of weapons. Thus, if one adds the number of long-range bombers, the number of land-based intercontinental missiles and the number of submarine-based

strategic missiles, one gets a roughly similar number of so-called "strategic delivery vehicles" on each side. (Indeed, SALT II will bring the two sides into approximate equality by this measure with an overall limit of 2,250.)

Under these circumstances, one could set in motion a far-reaching disarmament program simply by bringing these overall limits steadily down. One would negotiate with the Russians nothing more than a single number reflecting the rate of reduction. The proposals, in short is this:

The superpowers would agree to dismantle a small percentage (somewhere between 5 and 15 percent) of their strategic delivery vehicles each year, with each side retaining the "freedom to choose" those weapons that it would dismantle in any given year. Retained weapons could be modernized or replaced (within the agreed restraints, perhaps, of SALT II). The duration of the agreement would be indefinite, with conferences each five years to review its progress and the possibility of its prolongation.

Let us call this simple underlying proposal PAR for "Percentage Annual Reduction." How would it suit the different participants?

The Senate would be faced with a simple, understandable, easily verifiable concept rather than a complicated agreement, and Senate ratification would be once and for all.

The Defense Department would confront something akin to a simple budget cut which it gets to implement. It would get a maximum of freedom, and a year-by-year opportunity to decide what to dismantle after it has seen the whites of the eyes of the then current technology and the exact form of the previous year's Soviet cutback.

For President Carter, PAR would provide the possibility of an announcement of eventual major disarmament without the otherwise insurmountable necessity for any major action in the short run. Even U.S.-Soviet agreement in principle to PAR, without agreement to a specific percentage, would be electrifying. In particular, PAR would fulfill Carter's desire to set in motion a sustainable trend toward zero nuclear weapons without requiring him to gain an administration consensus on precisely which weapons would be dismantled in any given year. Considering the uncertainties that perpetually cloud the future of weapons technology, there may well be no other responsible way to undertake to reduce weapons levels beyond the next several years.

For the hawks, who have lost confidence in the U.S. negotiating machinery, PAR would replace an untrustworthy network of doves and bureaucrats with the Joint Chiefs of Staff and the secretary of defense.

For the doves, PAR would give hope that SALT II will really lead to something by building, as a starting point, on the one equality thus far in sight—numbers of delivery vehicles.

For the strategists, PAR would offer strategic advantages because the U.S. force is, at its core, considerably more invulnerable, and less exposed, than that of the Soviet Union and can thus make more effective use of the freedom to choose what will be dismantled.

For the Russians, PAR would provide a continuing disarmament process assuring a modicum of detente—their major goal.

For Sen. Henry Jackson and his supporters, PAR would leave the supervision of U.S. SALT reductions primarily in the hands of the two congressional Armed Services committees, one of which he will soon chair. Furthermore, Sen. Jackson in 1975 proposed something quite similar to PAR: the dismantlement by each side of 700 of the most obsolescent nuclear delivery vehicles (the quota of a 5 percent PAR agreement for almost 10 years.)

One important advantage of PAR's simplicity is that Carter and Secretary General Brezhnev could discuss it together and agree on it in principle. Both leaders are undoubtedly searching for some such announcement of future progress so as to enhance the attractiveness of SALT II. And both may be looking for a simple way of inducing their bureaucracies to take the possibility of true disarmament seriously.

What problems might this agreement have? In the first place, what about the fact that it does not control the number of bombs and of missile warheads—which are, after all, the implements that actually kill people? Indeed, if the PAR percentage negotiated were low—say, 2 percent—and if both sides were permitted to do so, each could for a time at least, actually increase its total number of bombs and warheads by loading up each retained plane and missile with still more weapons, or by buying new and bigger planes and missiles.

But if the percentage reduction negotiated were significant—say, 10 percent—both powers would have to increase the size or loadings of these planes and missiles dramatically every several years just to keep up. And this they would find difficult to do because of payload limitations, the cost of new systems, and the military ineffectiveness of overloading any one missile or bomber with extra warheads.

SALT II already has restraints on just such subdivision of missile payloads and on the numbers of cruise missiles permitted per bomber; these restraints would, if carried over to SALT III, go far to limit such offsetting increases, and to induce an eventual decline.

Precisely because PAR is so simple, it could be built upon with such side conditions. For example, those who are concerned with throw-weight imbalances, or gross missile size, of the two sides, could ask that larger missiles be eliminated as quickly as smaller ones. Similarly, it would be natural to require that multiple warhead (MIRVed) missiles be dismantled at least as rapidly as non-MIRVed missiles. Such conditions can, like the basic PAR percentage, be negotiated clearly once and for all.

Would PAR take one to zero nuclear weapons in an unrealistically short span of years? Not at all. Because the percentage applied is applied always to a smaller total, one does not ever reach nuclear abolition—for instance, at a 5 percent PAR one does not get to zero in 20 years. Instead, it would take 30 years to get even to one-quarter of the number of strategic deliver vehicles which we have today, ie., to about 400.

Obviously, at some point, a superpower PAR agreement would require the inclusion and cooperation of such evolving strategic forces as those of China. But one might be able to secure very large reductions before that time. And one might be able to get Chinese cooperation at, or before, that time to reduce its forces as well. The goal, of course, would be to move toward a world in which, if nuclear war somehow occurred, we would not lose our entire nation and most of our population. Meanwhile, these cooperative efforts would reduce the chance of the war itself.

What of the much-discussed problem of land-based missile vulnerability? There seems little, if anything, that the United States would want to do about this problem that we could not do under PAR. After all, PAR would permit each side to replace and modernize the missiles retained. And by setting in motion a process of reductions, the United States would gain the option of paring down the number of exposed land-based missiles, thereby reducing the percentage of the overall force that is vulnerable.

There are, of course, undiscussed complexities, for example, "gray area" systems based in Europe that are partly strategic weapons and partly tactical. These will surely be problems in SALT III. But there is nothing about PAR that would make these problems—which we already have—more difficult.

In his farewell press conference as U.S. SALT negotiator, Paul C. Warnke said one of his main problems was that arms control was, for humanity, "an unnatural act." No doubt it is. But PAR seems to come as close as one can to turning arms control into the more familiar and little feared "budget reduction." Melvin Laird and Charles E. Wilson may have shared nothing else, but each knew the wisdom of letting the Defense Department implement the financial cuts each was obliged to impose. Might we not have to do the same with weapons cuts?

In effect, PAR would be a way of running the arms race in reverse. In an arms race, each side builds weapons as it prefers. But the two sides are linked implicitly by a rate of growth of weaponry, because neither wants the other to get too far ahead. Under PAR, the rate would, of course, be negotiated and it would be a rate of reducing armament. But, as in the arms race, each side would maintain stability independently, as each did before. If the two sides are not willing to accept PAR as their underlying approach, one wonders if anything will ever work to achieve the disarmament that all participants declare is their goal.

[From the F.A.S. Public Interest Report, March 1979]

BOTH HAWKS AND DOVES SHOULD INSIST ON REDUCTIONS OF MIRVED ICBMS

The burning strategic issue of the day is the issue of land-based (Minuteman) missile vulnerability. Will the Soviet Union have—in fact or appearance—the ability to destroy the land-based ICBM component of the U.S. triad by the mid-1980s? If so, should America buy a new land-based missile with new basing? And should it equip its MX land-based missiles with the accuracy necessary to do the same to the Soviet force?

The first alternative is expensive (tens of billions of dollars). Nevertheless, last month, the Administration decided to move into full scale development of the MX missile without even knowing how it would be based. Why is it violating, at such potential expense, the most elemental "fly before you buy" rule—and doing so despite the discouraging recent experience of finding that 30 different basing methods have already been found wanting? The answer, of course, is the pressure to placate the hawkish-leaning undecided Senate votes on SALT.

PRECIPITOUS MX DECISIONS: A PRICE OF SALT

Individuals will have to decide for themselves how far this major price of SALT goes to negate its overall advantages. But the technological future impending is absolutely clear. Unless something intervenes, the period of the SALT II agreement, running to 1985, will see the vulnerability of U.S. land-based missiles to Soviet land-based missiles. And with the 1985 deployment of MX, undoubtedly armed with the requisite warheads and accuracy to do the same to the Soviets, the Soviet land-based force will be forced to redeployment. Thus the period of SALT III, as well as of SALT II, will be bedeviled by events set in motion right now.

Still worse, the alternative of counterforce is likely, should nuclear escalation begin, to encourage each side to fire first—in a reciprocating cycle of fear of otherwise firing last.

The one obvious solution to this new round of arms race that has, predictably, not reached public consciousness is: disarma-

ment. The two sides could agree to phase out the MIRVed component of their land-based missile force. With only single-headed missiles left, the party firing first would succeed in destroying, at most, only one missile with each single-warheaded attacking missile. He would therefore lack positive incentive to strike first. And he would have no negative incentive to do so (no fear of waiting) because there would be no danger that the other side might have incentive to strike him first. The agreement would be verified by prohibiting all flight tests of MIRVed land-based missiles.

It is true that such disarmament would not return the superpowers to the pre-MIRV era because submarines would still have MIRVed missiles. But the size, accuracy and numbers of the sub-launched missiles are not such, in this era, as would threaten the land-based missile forces.

WHY NOT PHASE OUT THE MIRVED ICBMS

The two sides have agreed in SALT II to have at most 820 land-based MIRVed missiles. In fact, the United States now has 550 and the USSR about 570, but theirs are growing. If each side were to dismantle a sizable fraction each year, the mid-1980s would see the absence of land-based MIRVed missiles, rather than a dramatic threat to Minuteman.

But would the Russians agree? These MIRVed missiles are their newest ones and expensive. Nor are our own Minuteman III missiles obsolete. Would the two sides agree to dismantle usable equipment? This is, of course, like asking: Could disarmament be "for real"?

There is a live opportunity to make it so during the ratification of the SALT II treaty. Doves who want disarmament could, if they had the wit to do so, join with hawks concerned over the vulnerability of Minuteman, to instruct negotiators to resolve promptly the forthcoming concerns of Minuteman vulnerability through reductions of strategic weapons, in the subsequent negotiations.

This would be in analogy to the resolution passed after SALT I in which negotiators in SALT II were instructed to assure "equal aggregates" in any subsequent agreement. It would not amend the SALT II agreement, but simply give the sense of the Senate as to its desires for the future—a sense strengthened by being attached to the treaty document and subsequently signed by the President.

The Administration would, at the moment, surely oppose such an effort because it would fear an inability to strike the requisite bargain with the Russians. It really wants disarmament agreements to maintain detente even as do the Russians. Neither superpower administration now expects disarmament to matter except in a largely cosmetic fashion, if ever they did.

Thus, while agreements once touted as "better than nothing" are sold now as "maintaining the process," few believe the process is going anywhere on comprehensive offensive weapon agreements. Those who will still urge that it be taken seriously are normally called by the press "ardent" disarmers. On the contrary, smart money in the Administration, shaken by the prospect of a close SALT II vote, is already scaling down its ambitions for SALT III to a series of bite-size agreements or, alternatively, a grand (show up the Russians) proposal. The latter is unlikely to be agreed if only because it will be proposed in 1980 after the SALT II agreement has set back any Soviet incentive to agree to 1985 (when the SALT II agreement runs out and it needs a new SALT agreement to achieve its motivating political goals of maintaining a modicum of detente).

DETENTE OR DISARMAMENT?

The unity of the disarmament community is itself hampered by a feeling that detente rather than disarmament is the only achievable goal. But recognition is growing that the institutionalized misuse of disarmament to achieve only political goals will eventually wear thin and backfire.

There is, thus far, little second-guessing of the ABM treaty on defensive weapons. But the results of the effort, in SALT I, and SALT II, to limit offensive weapons have persuaded a segment of the defense community that the Russians have exploited the previous treaties to improve their defense situation vis a vis our own. Obviously a certain amount of jockeying is inevitable under treaties. If the treaties themselves give a good downward impulse to the arms situation, each side will still be advantaged, notwithstanding minor shifts in relative position. Unfortunately, if the treaties in question are not sufficiently substantive, the jockeying, or even the appearance of it, can dominate the terms of the agreements.

In any case, in this instance, the costs of not agreeing to rid oneself of the MIRVed missiles is going to be: tens of billions of dollars on our side in MX missile and new basing; tens of billions on the Soviet side in new basing—since our MX will threaten their existing land-based force; and a conceptually dangerous situation in which each side can, if it strikes first, rid the other of its land-based force with only a fraction of its own. All this plus a prolongation of arms race redeployment over a decade or two.

Here surely is a situation in which disarmament can represent a clear and immediate solution to a pressing strategic problem; can save tens of billions of dollars; and can avoid the arms control problem of temptations to fire first.

If such an effort is not made, the problem will not be traceable to the flaws in the plan but to flaws in the thinking of the superpower administrations. As Secretary of Defense Brown said in his recent posture statement, SALT agreements "can make the achievement of destabilizing future advantage even more difficult than is already the case, while allowing current vulnerabilities to be removed." This is such a case. This is a job for negotiated reductions. Can't one side or the other rise to the occasion and make a suitable proposal?

SUPPLEMENTAL TESTIMONY OF JEREMY J. STONE FOR JULY 16 APPEARANCE BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE ON THE SALT II TREATY RATIFICATION

On listening to the first week of testimony, these five observations came to mind that might usefully supplement my earlier prepared remarks:

(1) In assessing General Edward Rowney's relative enthusiasm for the March, 1977 proposal over the existing treaty, the Committee should ask the Defense Department to confirm that DOD studies show that even the entire March, 1977 proposal would not have changed the prospect of impending Minuteman vulnerability. In short, even the better proposal which General Rowney thinks we might have reached would not have been that different in its strategic implications.

(2) In assessing Paul Nitze's concern to protect the possibility of a multiple Protective Shelter System (MPS) in which the MX missile would be moved between vertical shelters, the Committee should investigate these allegations, which I would make:

(a) The U.S. would not find it desirable to run a race in which it built holes to match the Soviet capability to destroy holes (with additional warheads) unless it abrogated the ABM treaty and used ABM systems to selectively defend the holes in which the MX missiles would be hidden; the risks here of losing the best arms control treaty the United States has would be prohibitive.

(b) Were the Soviet Union to construct the same kind of MPS shelter system, the risks of rapid Soviet expansion of its missile force into those empty shelters (the problem of "break-out") would become a dominant concern of American strategists, as would be related problems of verification as to whether the holes had or had not already been filled with real missiles.

(3) In assessing Secretary of Defense Brown's support for the MX missile, the Committee should note that he defended it on the basis of the possible future need for a survivable land-based system in the light of the possibility that, in the nineties, our submarine based force might become vulnerable. The Committee should ask itself whether it seems plausible that a land-based MX system whose invulnerability, on paper, is already a subject of massive controversy (after 30 possible basing schemes have been examined) is likely to be a useful backup to the submarine-based force should the submarine ever appear to have become vulnerable. Further, the Committee should note Secretary Brown's remark that it was the President who assumed that some suitable basing scheme would be found and, therefore, announced the decision for MX in June. There is a real likelihood of enormous error in strategic planning in the rush to deploy MX. What will the U.S. do for an encore if this multibillion dollar scheme fails?

(4) In assessing the judgement of both General Rowney and Mr. Nitze that the strategic situation is becoming unbalanced against us, the Committee should observe that both witnesses denied the likelihood of Soviet attack based upon this imbalance because of the strength of our retaliatory forces; instead, both analyzed the problem as one of perceptions of superpower leaders or third parties. Thus the Committee is being provided with a political, not a military judgment; the Committee should therefore ask itself, as a body wholly qualified to make such political judgments, whether it believes, in this case, that military imbalances that are devoid of military significance would, or would not, have political significance.

(5) In determining whether the treaty is "equitable", the Committee should recognize that, by the nature of the U.S. political process, there is no advocate here for the Soviet view of what is equitable. These points might be made, however, were such advocate here.

(a) The U.S. Got Belated Permission for the Air-Launched Cruise Missile Which the Soviets Do Not Have and Got It At Unlimited Range:

The U.S. succeeded in winning post-Vladivostok permission to deploy the cruise missile on bombers, a weapon which the Soviet Union does not have and which adds thousands of warheads to our arsenal, a number comparable to those associated with the SS-18 heavy missile—which we do not have but did not and do not want.

Moreover, although the U.S. gets to trade bombers with cruise missiles off against missiles with MIRV under a 1320 total, the Soviet Union must stay below 1200 in MIRVed missiles and cannot fill the 120 additional slots with MIRV or cruise missiles on bombers (since it does not have them). In effect, we are permitted 10% higher MIRV limits!

(b) The U.S. Got Belated Limits on Backfire for Questionable Reasons:

The Soviets have every reason to believe that the Backfire concern was a "makeweight" argument to give the U.S. the bargaining leverage to get the cruise missile permitted (since by oversight, neither of these weapons systems were raised at Vladivostok) and to limit a Soviet weapon that is effective against our naval forces.

(c) The Soviet Force Continues to Be More Vulnerable than the U.S. Force:

Because a larger percentage of Soviet retaliatory power is in its land-based force (perhaps 70–80%) the U.S. ability to destroy 50% of that force, which we shall have in

the 80's, is more significant than the Soviet ability to destroy our entire land-based missile force representing, after all, only about 25% of our entire force. In short, the Soviet Union must have concern, even in the 80's, about its landbased force as do we, and it has our greater anti-submarine warfare capability to be concerned about as well.

(d) Above All, For the U.S., the Treaty Is Something for Nothing:

As the Joint Chiefs of Staff admitted, the Treaty has a "quite nominal" effect on our program, but it does restrain the Soviet program, as Secretary Brown testifies, in numbers of missiles and warheads per missiles in ways which the Soviets might otherwise have pursued.

PREPARED STATEMENT OF ADMIRAL ELMO R. ZUMWALT, JR., FOR PRESENTATION BEFORE THE COMMITTEE ON FOREIGN RELATIONS OF THE U.S. SENATE ON JULY 17, 1979

Mr. Chairman and members of the Committee, it is an honor to testify before you again.

Today I want to try to remind you where we have come from in arms control and to measure promise against performance.

As Director of Arms Control in the office of the Secretary of Defense in 1962–63, I participated in the formulation of strategic policy and programs. In the aftermath of the Cuban Missile Crisis, President Kennedy and Secretary McNamara made the bold and idealistic decision to begin a dialogue with the Soviet Union designed to achieve a fair and balanced strategic nuclear relationship. Their speeches, their policy statements to Congress, and their discussions with Soviet officials sought to put a new theory across. The essence of the message was as follows:

The U.S. recognizes that its strategic nuclear superiority is unacceptable to the Soviet Union. We understand that your attempt to install the missiles in Cuba was an effort to redress that imbalance. We propose now to let you catch up to us. We shall then have a situation of mutual assured destruction or mutual deterrence. We propose to stop at the 1,054 ICBMs and 656 SLBMs we are now building. You should do the same. We propose to keep our missiles with a combination of size and accuracy that you will know from your own calculations that we cannot destroy yours in a first strike so that you could always retaliate if we struck first. You should do the same with regard to size and accuracy. Both sides should reduce the continuing radiation produced by their warheads to minimize the will of innocents if military targets should be struck. Each side should forego civil defense so that cities of each would be hostage against their own government's first strike.

To show good faith, the U.S. gradually reduced its expenditures for strategic nuclear arms to one-third of the constant dollar budgets of the period 1956–62 over a decade and a half.

In retrospect it is clear that the Soviet Union and the U.S. reacted exactly oppositely in their policies and programs after the Cuban Missile Crisis. In essence, our proposed dialogue remained a monolog. The Soviets accelerated their strategic nuclear weapons expenditures, outspending us for many years, today by threefold. They proceeded to build asymmetrical advantages in each of the areas of suggested constraint.

In order to get them to sign the SALT I Interim Offensive Agreement a decade later, we had to grant them nearly a 55% advantage in ICBMs—1,618 to our earlier proposed 1,054. They had the option to reduce to a 35% advantage in ICBMs in order to exercise their option to build up a 35% advantage in SLBMs, which they have been doing. At the signing of SALT I, because they had disregarded the suggested constraint on size, they had about a 300% advantage in megatonnage and throw weight. While we have greatly reduced the fallout produced by our warheads, they have maintained full fallout lethality so that their weapons will kill innocents for hundreds of square miles around the targets they hit.

And while we halt truly foregone civil defense, the Soviets have made major expenditures to develop underground shelter, population evacuation and industrial survival procedures.

It was with this background of knowledge that I had to make my decision as a member of the Joint Chiefs of Staff as to whether or not to support SALT I. It was clear at that time that the U.S. would retain significant advantages during the five year period of the SALT I offensive agreement. Our advantages in MIRVs and in strategic bombers would offset during most of the five year period the huge Soviet advantages in numbers, megatonnage, throw weight, radioactivity, civil defense and terminal bomber defense. The thrust of my testimony in SALT I was to make it clear that the Soviets would have all the advantages in the post-SALT I era unless SALT II were to provide balance, and that such balance could only be negotiated if the U.S. maintained the recommended strategic programs, the necessary intelligence programs and vigorous research and development programs.

In other words, I considered SALT I to be the last best hope for achieving the mutual assured destruction or mutual deterrence that President Kennedy had sought and that during the period of SALT I, as the Soviets began to overtake our qualitative advantages, they would have to be required in negotiating SALT II to surrender their quantitative advantages. None of the assurances required by the Joint Chiefs of Staff in supporting SALT I were adequately carried out. Further, the present Administration, instead of maintaining strategic forces for negotiation leverage, unilaterally gave the leverage away. I have heard much talk about SALT II being the result of the negotiating effort of three presidents. I consider that to be a misleading claim. The cancellations and delays of strategic forces and the concessions of this Administration go beyond what those previous presidents were prepared to agree to.

With SALT II the whole theory of the strategic relationship which Presidents Kennedy, Johnson, Nixon and Ford visualized between the U.S. and U.S.S.R. has been revised. The Soviets have achieved a treaty structure which conforms to their strategic concept of attaining a war winning capability and denying equality to us. We have deluded ourselves that we have achieved a useful arms control outcome. Our Secretary of Defense and our Joint Chiefs of Staff have confirmed recently that during SALT II the U.S. will fall into strategic nuclear inferiority. My own work as a member of the Committee on the Present Danger confirms this grim forecast.[1] SALT II, rather than being a part of the continuum that would have led to mutual assured destruction or deterrence, has instead served as a device for juridical formalization of Soviet strategic nuclear superiority.

The result is a SALT II which:

1. On the legal side, grants juridical strategic nuclear superiority to the Soviet Union. It permits the Soviets 308 modern heavy ballistic missile launchers while we are denied any. The missiles in those silos have greater destructiveness than the entire strategic ICBM and SLBM force of the U.S. The Soviets are granted ten re-entry vehicles on their largest missiles, four or six on their other MIRVed ICBMs, and we are permitted no more than three.

2. In practical terms, permits continuing large increases in Soviet capability during the period of the treaty. By the time SALT II expires the Soviet Union will have about the same number of launchers and warheads as we will, but the greater size of their missiles and warheads and their rapidly improving accuracy will give them superiority in every other strategic nuclear measure. They will have five times our ICBM/SLBM hard target kill capability, two times our area destructive capability, three times our megatonnage, and two times our throw weight. If our aging B–52s and their cruise missiles can get airborne and survive massive Soviet air defenses, we will have a growing superiority in delayed counter military potential. However, if one credits, as one should, the contribution of Soviet Backfiire bombers, this will not be an advantage. In any case, the delayed counter military potential does not offset the other factors.

3. Has designed limits so high that they put no effective limit on Soviet offensive strategic nuclear capability.

4. Does not permit adequate verification.

5. Nevertheless so favors the Soviet Union that the Soviets ought not to cheat.

6. So improves Soviet leverage and so reduces U.S. leverage that SALT III will be more favorable to the U.S.S.R. than is SALT II—just as, for the same reasons, SALT II is much more favorable to the Soviet Union than was SALT I.

7. Encourages the Soviet Union to accelerate its foreign policy adventurism around the globe in the face of our strategic inferiority and of the weakness of an Administration which has permitted itself to be driven to such terms.

In my judgment this dangerous treaty and this inadequate leadership have made it essential for the Senate to broaden its examination to include the entire strategic relationship with the U.S.S.R. Such a review would, I believe, lead to the conclusion that it is essential for the Senate:

1. To fulfill its constitutional advisory role by amending or rejecting SALT II in its present form;

2. To take action now to adjust the strategic context within which SALT II will be operative.

Rather than ratifying a Strategic Arms Limitation Treaty which permits the Soviet Union to achieve strategic nuclear superiority, the Senate ought to require from the President:

1. That he renegotiate the terms, providing the right to equality on both sides and at reduced levels so that strategic nuclear parity becomes feasible during the tenure of the treaty.

2. At the same time that he submits the revised treaty, he send forward to the Congress a program to acquire and maintain the specific strategic forces that would restore the balance under the renegotiated terms.

STATEMENT BY ADMIRAL THOMAS H. MOORER, U.S. NAVY (RET.), FORMER CHAIRMAN, JOINT CHIEFS OF STAFF, BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE ON JULY 17, 1979

Mr. Chairman and Members of the Committee: I am honored and grateful for this opportunity to appear before your Committee to give my views on the vital subject now under consideration by you—SALT II.

My great interest in this matter is heavily influenced by my experience in the SALT I process. In my capacity as Chairman of the Joint Chiefs of Staff (1970–74), I participated in practically all of the National

[1] I have studied the analytical work submitted by Paul Nitze in his statement of July 12, 1979, before this Committee. It is the most professional and definitive work on the SALT II issues that has been done, inside or outside the government.

Security Council meetings and attended other meetings held by the Joints Chiefs of Staff with the Secretary of Defense, as well as Dr. Kissinger in his role as Advisor to the President on National Security Affairs. Subsequently, I have followed the SALT II negotiations as closely as possible without ready access to all details.

I unequivocally oppose SALT II as now presented to this Committee on two counts: firstly in substance, on which I will briefly comment, and secondly on the impact it is bound to have on the world political and military environment.

With respect to substance, let me say at the outset that since we have never had a nuclear exchange between two powerful nations, all conclusions as to the outcome can be nothing more than speculative estimates. I doubt that there are as many as a hundred people in the United States who understand the interplay of warning time, decision-making, command and control, response, yield, accuracy, damage effects, fallout, etc., which are so closely associated with the possible use of nuclear weapons. Consequently, I do not propose to deal in detail as to the specific numbers or characteristics and effects of various weapons systems which must be considered. No matter what one may say on any subject, there will always be someone else who holds a different opinion, whether based on fact or not. I would like, however, to highlight several concerns I have in regard to the proposed treaty.

First, the Backfire bomber. I fail to see why the United States can afford to exclude this weapon system from the SALT II treaty while at the same time count all of the strategic bombers of the United States, including those in storage. The Backfire bomber has a full capability of reaching the United States without refueling. It is inconceivable that in any major nuclear exchange with the United States the Soviets would be overly concerned with the capability of these aircraft to return to Russia after an attack on the United States. The facts are that they can reach the United States, deliver their weapons, and then recover as best they can by landing in Cuba, Mexico, or perhaps even at sea. Furthermore, the effectiveness of this aircraft is already in the process of being enhanced by tests with the cruise missile. I consider it most ill-advised for the Administration and other supporters of the treaty to simply pass over the Backfire bomber issue by informing us that they are in possession of a statement by Mr. Brezhnev which has assured the United States that the Soviet Union will not use the Backfire bomber as a strategic bomber, and that it intends to limit the production of this aircraft. Clearly Mr. Brezhnev will not be in power forever and the question then arises as to what action his successors might take on this matter. In fact, I think no chief of state should pay any serious attention to such assurances and anyone who really believes to the contrary, particularly in regard to the Soviet Union, is naive indeed. To add to this problem, I think that the American people should be aware that the United States has no air defense worthy of the name. While the Soviet Union has thousands of surface-to-air missiles and interceptors designed to defend against bomber attack, the United States in recent years has all but eliminated such capabilities. At best our air defense can be described as a peripheral warning system. For all practical purposes, once an enemy penetrates this system, it can cruise over the interior of the United States essentially unopposed. Hence, why ignore the threat of the Backfire bomber and thus give the Soviets a free ride in this area of strategic offensive capabilities?

Second, I have always been concerned about the SS–18 missile which the Soviets are allowed to have while the United States is denied such a weapons system. The argument that we have no program to build such a missile is a specious one. What possible basis can there be for permitting the Soviets to demand that the United States be denied a capability which they possess?

Third, I would refer to the SS–20 missile which, as you know, can be quickly modified by the addition of a third stage and thus be converted to an SS–16 missile, a missile easily capable of reaching the United States. Why should this missile not be counted in the aggregate inventory of weapons?

Finally, we come to verification. There is no question about the fact that the loss of Iran has very significantly degraded our verification capabilities. There is also little doubt that our political difficulties with our old ally, Turkey, due largely to what I would term ethnic politics, has made it double difficult to compensate for the loss of the facilities in Iran through operations from the bases in Turkey. In addition, one must never lose sight of the asymmetry existing between the closed society of the Communist world and the open society we enjoy here in the United States. I hope it is clear to the American people that when the Soviets are assessing U.S. defense policy, they can obtain through purchase of the *Congressional Record* and publications such as *Aviation Week* all the information they need for less than five dollars. The United States, on the other hand, must invest hundreds of millions of dollars to acquire the same kind of information insofar as the Soviet weapons procurement is concerned. Also, the Soviets have never been willing to discuss on-site inspection, and I for one am not willing in any sense to base the security of the United States on a matter of simple trust.

I now come to my second concern, Mr. Chairman, which has to do with the worldwide perception of the United States and its will, determination, and capability to protect its own interests and those of our allies. We already have portrayed an image which suggests full retrenchment functionally as well as strategically. One only has to talk to many of our allies to understand this point. The Vietnam war, the suggested withdrawal of troops from Korea, the failure to take action in Angola or Ethiopia, the loss of Iran, the proposal to demilitarize the Indian Ocean—all of these things have made the nations of the world ponder where we are headed. The timing of this treaty when considered against the non-military commitment and perceived retrenchment policies of the United States is very bad indeed.

I fear that the SALT II treaty as now proposed will freeze the United States into a position of inferiority and simply serve to augment and reinforce this growing perception which other countries—friend and foe alike—have of us. Once this happens, Mr. Chairman, one can be confident that we will feel far-reaching impact, not just in the military arena but in the international political and economic arenas as well. Most of the countries of the world do not enjoy the geographical and economic security with which the United States is blessed. Many of them are in a permanent state of insecurity, always looking for what appears to be the wave of the future and making their accommodation with it. It is for this reason—more than any other—that I am concerned about the substance of SALT II.

I also have another concern I would like to mention. There are, of course, those who say that all of the European leaders fully support SALT II and hence conclude that, this being the case, SALT II must be good. The facts are, Mr. Chairman, that the European nations are frightened. They are no longer certain that they can count on the United States to play the role it has played in the past and, as a consequence, they do not want to see any action taken which would encourage the Soviets to be even more aggressive in the pursuit of world paramountcy—the goal they have sought since World War II.

Also, I would like to comment in passing that it has been my observation that here in the United States we produce what I consider to be the world's worst negotiators. After having given much thought to this matter, I believe I can understand the basis for U.S. negotiatory behavior. The reason, I believe, is that Americans are goal oriented and if given a job to do such as negotiating a treaty, they will do just that and often are prone to reveal their fall-back position almost before they have heard the full opening position of the other side. In any event, I think history supports the point that generally speaking our negotiators feel that a bad treaty is always better than no treaty.

I would also like to mention at this time SALT III. There are those who justify SALT II on the grounds that "we must keep the process alive." If SALT II is an example of our negotiating effectiveness, I predict that SALT III will result in the dismemberment of NATO for all practical purposes. In the first place, we have already run out of concessions in the field of weaponry. The first action of the Soviets in SALT III will be to complain bitterly about our forward based systems in Western Europe as well as the location of the Sixth Fleet. We will hear proposals that the Sixth Fleet withdraw from the Mediterranean; that any nuclear delivery capable aircraft be withdrawn from Europe; that submarines remain beyond certain lines (ignoring, of course, the fact that the Soviet submarine missiles can reach the United States from areas off Murmansk). If the United States, in the interest of "continuing the process" ever accedes to all the parts of the Soviet proposals, that will be the end of NATO and the isolationists in this country will have achieved their objective—that is, all U.S. forces and influence overseas to withdraw behind a Fortress America. In sum, in the SALT II process we will have seriously bargained away our negotiating position for SALT III in 1985. Thus it is the future negotiating position itself which will have been seriously compromised if SALT II is ratified in its present form.

For those who would ridicule this idea and suggest that we will never let it happen, I can only say we should look at the record so far.

Finally, Mr. Chairman, you had inquired as to what actions I would recommend to correct any deficiencies in SALT II I have cited. As to tactics and procedures, I would certainly leave that up to the judgment of this prestigious Committee. However, I strongly recommend that we correct the deficiencies I have outlined with respect to the Backfire bomber, the SS–20 missile, the verification capabilities, encoding of telemetering, etc., but more importantly, I recommend that the United States conduct its foreign affairs in such a way that we convince the world that, henceforth, we intend to protect our interests worldwide and no longer intend, through action or inaction, to convey the message that we are engaged in an inexporable program of large scale retrenchment.

Thank you, Mr. Chairman.

STATEMENT OF GEN. RUSSELL E. DOUGHERTY, USAF (RETIRED), BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE ON SALT II AGREEMENTS; JULY 17, 1979

Mr. Chairman and Members of the Committee: By your letter of 5 July 1979 you have invited me to testify before your committee on 17 July 1979, and have solicited my views on (a) "the military significance of the SALT II agreements" and (b) my "assessment of whether the SALT II agreements enhance or diminish our national security." Additionally, you have indicated that you would welcome my thoughts on

(c) "specific strengths and deficiencies of the SALT II agreements" and (d) "what actions I would recommend to address any of the deficiencies" that I identify in the agreements. I, of course, am honored by your invitation and pleased to respond to your questions. My comments will be in the limited context of a retired officer and from the perspective of a former strategic force commander, military planner and international staff officer in Allied Command Europe.

There is great military significance—for us and our Allies—in the overall strategic arms limitation process and in our hopes and expectations for the results of that process. For, in the final analysis, the success that can be achieved in mutual, balanced reductions and limitations in strategic weaponry (or, for that matter, any other type of military strength) offers the only reasonable way in which we can reduce the burden of maintaining: (a) as a minimum, an aggregate relative balance with the conventional and strategic military strengths of the Soviet Union (and, with three tours in Europe, I find both strengths absolutely related), or (b) as an optimum US and Allied posture, an actual balance in every aspect of Soviet military strength. And, of even more significance, success in this process offers humanity the only reasonable way in which the horrors of full scale nuclear conflict can be ameliorated.

I know of no senior military colleague—active or retired—who does not support our nation's efforts to achieve mutual, balanced reductions and limitations in both strategic and general purpose forces and weaponry, if such can be achieved without increasing the risk to our security and that of our Allies.

As I understand the basic objectives of our nation, they are not premised on any requirement to maintain military forces for conquest or aggression.

The required peactime forces and posture flowing from our own national objectives is minimal—only that required to maintain internal order and to preclude any external interference with our Nation's peaceful pursuit of its legitimate national objectives—thus, our Nation has no inherent national requirement for standing military forces to deter or counter consequential external military threats to our security and our national objectives in the absence of such threats.

The post-World War II emergence of a requirement for consequential US standing forces, nuclear and conventional, did not result from any aggressive intent of our Nation, but from a recognition that such a threat existed:

The inimical political creed of the Soviet Union and its aggressive spread, coupled with the maintenance of a gross excess of Soviet military strengths—initially conventional, but now both conventional and nuclear—well in excess of any reasonable requirement for their own defense, and fully integrated into their overall objectives.

Given this basic rationale for the increasingly serious situation in which we and our Allies find ourselves, I am unable to accept or understand the use of misleading phrases, such as "arms race" to describe the dilemma we face in maintaining relevant strengths to deter or counter these Soviet forces. In the face of our inability to achieve a more equitable agreement that will suit everyone and make our job less complex and demanding, I think we should set aside such simplistic phrases as "arms race" and "over-kill" and see if the SALT II agreements enhance our security and make our job a bit easier—or diminishes our security and increases the burden on our Nation. I have tried my best to do just this—without the pressures of any external influences other than those inherent in my military experiences over the past forty years.

In my opinion the SALT II agreements, as they have been negotiated and signed by the President are, on balance, more in our security interests and those of our Allies than no agreements. They establish the principle of equal limits—this is basic to me, and I well remember the years of earlier work with the Joint Chiefs of Staff (in the 1960s and early 70s) when all were agreed that "equal aggregates of strategic forces with freedom to mix" was fundamental to an equal starting point in the arms limitation process. From such a starting point, it would be possible to proceed to "balanced" reductions; assuming, of course that we maintained such strength that we had a meaningful negotiating stance.

Obviously, the SALT II agreements have not really achieved the general objectives we all have for the overall process; these agreements are not (in the short term, at least) going to reduce the requirement for the essential modernization of our strategic forces, nor for building in diversity and flexibility (a tired, overused, but very important word to describe what is so very important to a military planner) in the capability of our strategic forces and in our theater nuclear forces. I do not like the exclusion of the Soviet's Backfire bombers; I do not like to see them permitted to continue the deployment of modern, large ballistic missiles; I cannot even disagree with my respected colleagues who are confident that we could (or might) have negotiated a better agreement—they may be right, but we didn't negotiate a better one, we negotiated this one. I hope it is not the last one we negotiate, and I hope and urge the Senate to help us be in a better, stronger position for the next negotiating round—certainly in our strategic nuclear forces; but, importantly, also stronger, more modern and relevant in our theater nuclear forces and our interrelated general purpose forces.

It has been of great significance in my review of this SALT II agreement to learn through two press reports that the Commander-in-Chief, The President, has said that he would do all he could to comply with the basic agreements he has signed, even if the Senate fails to ratify these agreements as a treaty. If these reports are accurate, this is an important point, for those of us in the military planning and programming process know that the actions of the Commander-in-Chief are critical to the military development and deployment process. I cannot imagine a meaningful military program proceeding through development, procurement and deployment in today's environment without the support and approval of the Commander-in-Chief. This was brought home to me very forcefully by the Senate's amendment and the President's action on the B-1 procurement legislation while I was serving at CINCSAC. Thus, the treaty status accorded or withheld on these SALT II agreements may be less of a consideration than an assessment of what we can do under the terms of the agreements, as signed. I have made such a personal assessment of the SALT II agreements and conclude that we have the options, if we elect to use them, to have a series of modernization programs that will reverse the downward trends of our relative force balance with the Soviets—and greatly improve the position of the United States in subsequent negotiations.

I am well aware of the problems of verification of the provisions of the SALT II agreements; these problems for our intelligence community and our sensor systems are certainly made no more difficult by the agreements. Fortunately, I do not think anyone approaches this as a matter of "trusting the Russians"—I find that irrelevant. Insofar as the issue of "cheating" is concerned, I suppose they could if they chose to do so. But, if we adhere to a continuing, aggressive modernization program for our intelligence community and take all reasonably available opportunities inherent in our various intelligence capabilities, we should be able to detect meaningful "cheating" by the Soviets. The test will come in deciding what to do about it once it is discovered. In my view we must not let any variation in practice go unchallenged. At best, adequate intelligence on Soviet activities is a very difficult, demanding and fragile thing. I think we will do ourselves a great disservice if we discuss the issue of verification too much, too publicly. In my judgment, we have already done too much of this.

In my analysis of the Agreements I find considerable military significance in the utility they will have in helping us "size the threat" posed by the Soviet's intercontinental nuclear forces in some important measures—agreed warhead limits is an illustration; numbers, of course, is another. Also, it could operate to buy us some critically needed time to get our own programs up on schedule. In the mid-1960s it was difficult (or impossible) for many of our key decision makers to accept the early indications of a major Soviet thrust to equal or surpass us in many measures of strategic weapons capability. It is still difficult for some to accept and assimilate the significance of the momentum and consequences of the Soviet military programs and deployments. Accurate, unobscured highlighting of the facts of this buildup throughout the Senate's hearings will be a belated but useful revelation for our nation; and, at last, we are dealing with their numbers now—not just our assigned numbers. It should be easier for all of us to understand and size the task that is before us.

I mentioned the element of time—time to understand to decide, to build a consensus for action, to develop, to produce, to deploy, to train . . . all the things that are so important to the operational commanders. On 1 July, writing in the Washington Star, Arthur T. Hadley explained why he was visiting one of our operational commands and, as he wrote, "I am in this car, heading for this (4:30AM) B-52 flight because I am always suspicious of Washington debates. They are so often about things that do not exist 'out there'." How true! We who have followed this hearing have been exposed to figures such as 3,000 Air Launched Cruise Missiles (ALCMs), ALCM carriers, M-X missiles, etc. . . . none of which exist today—some of which will not exist in operational units when the SALT II agreements are scheduled to expire. It is useful to remind ourselves that it takes years and years for these developments to become actual operational weapons in the hands of trained operational units "out there". It is only then that they figure realistically in the deterrent equation; and, unfortunately, most of the weapons figures we are discussing for the Soviets are years ahead of ours in becoming operational weapons systems.

I appreciate fully the national pride, the accuracy, the optimism of the repeated references I hear to the effect that military strength is the only area in which the Soviet Union seriously challenges us—that we have a far stronger economy, a more advanced technology, a more wholesome and democratic political system; that we far excel them in all the other trappings of an advanced society. All of this misses a very fundamental point: we must make timely use of these strengths if we expect them to protect us under immediate military threat, coercion or attack. We have these societal advantages, true; but if we fail to use them wisely and in good time, the potential advantages could be made meaningless by a very real, very operational, and very massive arsenal in being and in the hands of the Soviets.

One specific concern should be highlighted—and that refers to the Protocol to the SALT II Agreements and its present termination date of 31 December 1981. I think that termination date is critical for I am of the opinion that we must have uninhibited freedom to test and deploy the M-X—it is vital to our deterrent strength and to the future of the SALT progress. Also, we need to have the flexibility in deployment of sea and land-based cruise missiles, with ranges in excess of 600 kilometers, as soon as they are ready to deploy. We have some very important but antiquated theater nuclear forces that must be modernized; we have a capability in cruise missiles that, while still potential, is so important that we should not inhibit and hazard our flexibility in deployment and range beyond the date we expect to be ready to deploy it in multiple modes. In any event, the potential precedent that could result from any extension or drift in the positive termination of this Protocol would be seriously damaging. It's a danger point.

I would urge this Committee to again read the statement of the JCS on 11 July when they appeared before you; observing their careful analysis and rereading the reservations and concerns they expressed. This so-called SALT II "debate" (and I wish we could rid this town and this nation of that designation!) is having a divisive, corrosive effect on many of us in the senior officer ranks, active and retired. The JCS are not above this vicious schism among us with military backgrounds; nor, I suppose are Senators of the United States. If I am correct, this schism is the result of varied degrees of frustrating experiences in attempting to reconcile prudent military concerns for the security needs of our nation with the understandable yearning of our people and our political leaders to be free of the fear of nuclear war and of the consequential burdens of armament and readiness.

I think the statement of the JCS, through General Jones, the Chairman, is a brave statement, an accurate statement, a forthright statement and I associate myself with it, without reservation. I agree with their summary evaluation of the SALT II agreements as a "modest but useful step . . ." I would hope that more and more of my military colleagues who have now had time to reflect on the SALT II issues, options and alternative—and who will and can break out of the "type boxes" into which they are placed by circumstance, association, or pressures will be persuaded of the correctness of the position taken by the Joint Chiefs of Staff.

Independently, I have arrived at a "bottom line" not unlike that taken by the JCS when they advised you that:

". . . the danger to the United States does not arise from any specific limitations to the Agreement, but from potential consequences of unilateral actions or inactions in the past—and, if we are not careful—in the future . . . our ability to take the necessary programmatic actions to ensure essential equivalence is the ultimate test for SALT II . . . our options and flexibility are adequate, so long as we choose to exercise them." (undermining mine)

From my analysis, the SALT II agreements we have made with the Soviets are the focal point for the discussion, but the agreements we make with each other to rebuild our sagging strategic and theater nuclear forces are the real test for our future. These internal agreements are at the core of the controversy and will determine the danger and increased risks we will face throughout the life of SALT II. Our deterrence must not fail—the uncertainties of failure are too great to chance it. I would urge the Senate—the Congress, and the Administration—not to attempt to be too precise in their calculations, too clever in their proceedings, too dependent on critical assumptions. We must rapidly reverse the downward trend of our force capabilities vis-a-vis the Soviet Union—in our Strategic intercontinental forces and in our theater nuclear forces. Things may not happen in the way we assume they will and our military must have more flexibility than that precisely calculated in some sterile, remote analysis. If we err, it must be on the high side—on the side of strength, not imbalance and weakness; the stages are too great, the possibility of error too high.

Some say we need only a single mode strategic deterrent force, and that this force and our related theater nuclear forces do not require a war-fighting capability; they assert that a war-fighting capability is passe, irrelevant, outdated. They may be right—but they may be wrong! If they are, we will be left in an inflexible, inadquate, intolerable position from which we cannot hope to assure our allies, control escalation, defend our nation, or deny an enemy the fruits of his aggression.

Respectfully, I urge you and the Administration to take advantage of the time we have—while we have it.

Thank you—and I will do my best to answer your questions.

STATEMENT OF ADMIRAL ISAAC C. KIDD, JR., U.S. NAVY, RETIRED, BEFORE THE SENATE FOREIGN RELATIONS; JULY 17, 1979

Mr. Chairman, gentlemen. I am both flattered and humbled to have been invited before your Committee today on the subject of our Strategic Arms Limitation Treaty now under consideration. I am an authority on neither Strategic Arms Limitations nor on treaties. For the last eight years, however, I was responsible to our Commander in Chief and to you gentlemen for the development, design and production of Navy strategic weapons; the last four years being in command of three quarters of our Navy strategic Forces—the submarines and the weapons in them.

With this modest background, I support this Treaty for the following reasons:

We are a strong nation which has allowed itself to get behind—behind in both strategic and conventional forces. The Treaty offers a "Time-out" as it were, for us to catch up. I trust we will not blow this opportunity to catch up as it could well be our last chance.

It is so unusual for such "Times out" to occur in the conduct of international affairs that this is an opportunity I am almost ashamed to say we cannot afford to lose.

We as Americans have done this deed to ourselves. We have no one but ourselves to thank for it—the "deed" being the frittering away of our bargaining edge of military strength. I have confidence we have the wisdom in our government and in our people, the strength to acknowledge our mistakes and the determination to get on with correcting the deficiency.

The Treaty is a compromise. It is far from ideal. We would have preferred it different in many many ways. We were not able to bring it off. A compromise being the least unattractive of two poor alternatives, of course many are unenthused with the results—I among them. The alternative of having no ceiling at all, considering our position at this point in the so called race, I find totally unacceptable because I know how difficult it is to design and build such systems and how very long it takes to bring them into service.

From a technical point of view, I find the details on "Verification" acceptable—granted, marginally acceptable, but considering the state of the art, acceptable under the circumstances. The potential for cheating is present everywhere. It is certainly not unique to this Treaty. If one is determined to cheat, it must be expected. We too must be prepared for it to happen. Considering Ambassador Luce's assertion that the Soviet record is virtually unblemished when it comes to abrogations at times convenient to them, our preparations and sensors, in my view, will provide such evidence in time. The better question seems to me to be, are we quite ready to blow the whistle on them when the evidence comes to hand? To make this action effective, we must be strong enough to oblige compliance.

The Treaty was under negotiation for so long and under so many negotiators of varying persuasion, party, background and like differences, I find it quite remarkable we did as we did—recognizing that each one in the turbulence of personnel turnover felt undoubtedly compelled to leave his or her bit of body-english in the language of some particular part.

Considering the allegation, ". . . we were not tough enough, and could have gotten more, had we been," I regrettably find it necessary to reject this argument as an absolute value, because I fear the real reason was that we were not strong enough. There is indeed a vast difference. It is pointless to sit down at a high stakes poker table when everyone at the table knows you don't have any money. The Soviets have been busy building rapidly for many years. We have not. They had more that they could negotiate with than we did. Over the many years of negotiation, I've watched negotiators take pride in winning a point—but it cost something every time. We seemed simply to run out of things to give up to get what we wanted; so we ended up being dictated to, rather than being strong enough to dictate the terms as we would have preferred—a new and somewhat mortifying position for us. We must, therefore, get down to business and reverse this unsatisfactory trend.

Considering the option of rejecting the Treaty, it has been asserted this would confound the Soviets and draw greater respect, followed by their asking to reopen negotiations because they have more need for the Treaty than we. This may be so; but this entire philosophy is based upon the evaluation of Soviet intentions that, and I quote ". . . . I think the probability is that the Soviet Defense Program—and particularly that portion of it dealing with strategic nuclear weapons—will be about the same whether SALT II is ratified or not." This from one of the principal objectors to the Treaty in its present form. Now, gentlemen, I've been educated and trained for over forty years to deal with capabilities and limitations vice intentions, because intentions could change minute by minute—and probably will.

For myself, I do not find the Soviet track record of consistency in following stated intentions, implied intentions, or assumed intentions (as in this case) to be reassuring to the degree needed on which to base a national decision of this magnitude. We must keep reminding ourselves they are ahead. We allowed them to get there as we blissfully slid down the bannister of strength from "superiority" to "equivalence" to "rough equivalence." We have a Treaty offering a ceiling at the so-called "equivalence" level. If we reject it, so be it. But heaven forbid we be so naive as to assume, when we start building up to redress the imbalance, that they will be accommodating good chaps and allow this to occur with an ". . . about the same" building rate as today—no way, gentlemen, to borrow from the vernacular of the young.

The cost with the Treaty is viewed by some as staggering. The term "arms race" is often heard—referring, for example, to the numbers of new war heads needed to reach our limit. A race, to me, carries a traditional con-

notation of somewhere near an even start. This then is a new use of the term "race" when we use it to describe the effort needed to catch up. We seem to lose sight of the fact that with the Treaty, there is an end in sight. Without it, there is none clearly evident. Gentlemen, the cost to reacquire this so called level of "rough equivalence" will be the bargain of the history of the world if that is what is needed to deter nuclear war—nay any war for that matter. There was a time when it took roughly two generations to pay for a war. Now, with our more sophisticated methods for destruction, historians of economic matters report we have yet to pay one thin dime on the principal of the costs of WW II and onward to the present—a tidy bill of some $1,076.6 billions of dollars owed. The bill for the next one, if nuclear fought, promises to be quite a number indeed. It is thus rather clear those responsible for paying the premiums of prevention on our national insurance policies of the day did not do well. I have hopes our record will be more realistic, persuasive and underwritten by unmistakable tangible evidence of national resolve.

Finally, gentlemen, a plea to you to better help the American people understand what this subject of SALT is all about. My six children, their husbands and wives living from one end of the country to the other have called and told me they are quite confused. To listen to learned men of substance pillory each other, call each other liars, in a nice way of course, has created an atmosphere of wonderment as to whom to believe. This is not good. Public confidence must be restored in those of us who are and have been public servants. The nation needs and has every right to expect this confidence. Your efforts here are therefore terribly important and appreciated. As a retired public servant with no party, with three sons who have served in uniform, and a father killed in WW II who never voted—it was considered improper in those times—I am uneasy over the undercurrents of partisanship surging and rolling on the beaches. From my vantage point over the last many years, there is an abundance of blame to be spread about on just how we managed to slide this far. No one man, no one party, no one administration could possibly have done it alone. In retrospect, it was indeed an all-hands effort. It is too late for acrimony. It is too late for recriminations. I most respectfully urge we take Mr. Vinson's advice, acknowledge the ox is in the ditch, and muster all-hands to get it out. Thank you Mr. Chairman.

STATEMENT OF THE HONORABLE HAROLD BROWN, SECRETARY OF DEFENSE, ON THE VERIFICATION OF SALT II, BEFORE THE COMMITTEE ON FOREIGN RELATIONS OF THE U.S. SENATE; JULY 18, 1979

Mr. Chairman and members of the Committee,

I am here today to discuss one of the most important issues concerning the new SALT II agreement, the question of verification. I believe that verifiability is a necessary condition of any good arms control agreement. Without it, even the most attractive and advantageous agreement should be rejected. We are dealing in SALT with our principal military competitor, our chief political—and potential military—adversary. We expect compliance with the accord, but we cannot rely on trust or optimistic assumptions about Soviet behavior. The treaty must be adequately verifiable from the day it enters into force.

Let me begin my presentation by stating my conclusion: we can adequately verify Soviet compliance with the provisions of SALT II. We will be able, by our own intelligence efforts, to detect a Soviet violation in time to react so as to block or offset any substantive military advantage that could result from the violation. Put another way, any Soviet cheating which would pose a significant military risk or affect the strategic balance would be detected by our intelligence in time for the United States to respond effectively.

MONITORING AND VERIFICATION

To monitor Soviet compliance with the provisions of SALT II, we employ a set of intelligence capabilities known as "national technical means." This general terms covers a variety of methods for monitoring Soviet military activities, including photographic satellites and other technical collection means. These systems enable us to monitor, for example, Soviet telemetry—technical data transmitted by radio signals from the Soviet missiles during tests—from outside Soviet territory. Other examples of national technical means include the ships, aircraft, and land-based radars used to monitor Soviet missile testing.

This is not a complete list of the technical devices that constitute our national technical means. Still less is it a complete list of all US intelligence resources. Many of our intelligence resources are very sensitive, and public acknowledgement of their capabilities would make it far easier for the Soviets to negate them. For that reason, public information about the details of our intelligence facilities and capabilities is quite limited. Although there have been a number of discussions in the media about our intelligence sources, it would not be in the nation's best interest to comment publicly on the accuracy of reported capabilities. The details of our intelligence collection capabilities will be covered in considerable detail during closed testimony. All Senators will have access to this information before voting on the Treaty through procedures worked out with the leadership, and will be able to make their own judgments about the adequacy of our capability.

It is important to distinguish the nature of monitoring from the process of verification. Monitoring, in the SALT context, is the task of collecting and analyzing information about Soviet systems subject to SALT limits. Verification refers to the continuing process of assessing compliance with the provisions of arms control agreements. It is the process of judging whether a state is living up to its international obligations. It uses the results of monitoring as one key input, but relies on other assessments and judgments as well.

It is also important to remember that monitoring is simply a name for one type of strategic intelligence. Our need for such information did not begin with SALT. The United States spends billions of dollars every year to maintain the most sophisticated and capable intelligence-gathering system the world has ever seen. With or without SALT we have a vital interest in keeping track of Soviet strategic forces. Doing so is our highest intelligence priority.

The attached chart reflects the range of our monitoring and detection confidence. "High confidence" in detecting a prohibited activity means that we have a probability of detection greater than 90%. With respect to counting and measuring requirements, high confidence means that we have an uncertainty of less than 10%. "High moderate" confidence is a probability of detecting a prohibited activity of between 75 and 90%, or an uncertainty in counting and measurement of between 10 and 25%. Ranges for moderate, low, and very low confidence are shown on the chart.

The United States by necessity takes a conservative approach to monitoring an arms agreement. We cannot afford to do otherwise in a matter so fundamental to our national security. Anything less than a 50 percent chance of detection, for example, we consider as providing "low confidence" in our monitoring capability. At the same time, however, what we take to be "low confidence" may appear to the Soviets as a high risk. A somewhat less than even chance of US detection would probably appear as a prohibitively high risk to a Soviet planner contemplating cheating, particularly when he considered the likely US reaction to such a discovery. [Illustrations mentioned, not printed in the RECORD.]

THE ADEQUACY OF VERIFICATION

Our impressive monitoring capability does not mean that we can be certain of detecting every conceivable treaty violation—or every conceivable change in Soviet strategic forces—as soon at it occurs. That is an impossible and unnecessary standard to meet, either for verification or for intelligence generally. No arms limitation agreement can ever be absolutely verifiable. The relevant test is not an abstract ideal, but the practical standard of whether we can determine compliance adequately to safeguard our security—that is, whether we can identify attempted evasion if it occurs on a large enough scale to pose a significant risk, and whether we can do so in time to mount a sufficient response. Meeting this test is what I mean by the term "adequate verification."

I should note that "adequate verification" has been our objective throughout the entire ten years of SALT negotiations. As a member of the US Delegation to SALT I, I recall President Nixon's instruction in 1969 that "any agreed measures must be subject to adequate verification." That has been the consistent policy of our government ever since. It is also the standard embodied in the Arms Control and Disarmament Act.

Adequate verification depends on a number of factors. Among the most important are our capability to monitor Soviet activities related to compliance; our assessment of the risks to the United States (and benefits to the Soviet Union) of potential violations in light of the probability of detection; and our ability to carry out appropriate and timely responses if violations are discovered.

U.S. INTELLIGENCE RESOURCES

Any judgment about the adequacy of verification must begin with an examination of our own intelligence collection systems and techniques for analysis. Our national technical means enable us to monitor various key aspects of Soviet strategic programs, including the development, testing, production, deployment, training, and operation of Soviet strategic capabilities. We can perform these tasks despite the closed nature of Soviet society.

Our national technical means enable us to assemble a detailed picture of Soviet forces, including the characteristics of individual systems, by using information from a variety of sources. For example, our intelligence system has enabled us to build a comprehensive understanding of the Soviet ICBM system from design through deployment. We know that the Soviets have four design bureaus for the development of their ICBMs. We monitor the nature of the projects and the technologies pursued at these bureaus. We know which bureau is working on each of the new or significantly modified ICBMs known to be under development. We have a reasonably good idea of when they will begin flight-testing of these missiles.

Missile production takes place at several main assembly plants and at hundreds of subassembly plants, employing hundreds of thousands of workers. We monitor the Soviet ICBM deployment areas on a regular basis, observing construction activity, movement of people and materials, and training exercises. We have a good understanding of the organizational and support structure for deployed ICBM units.

We regularly monitor key areas at the Soviet ICBM test ranges. We monitor missile

test firings with a wide variety of sensors: cameras taking pictures of launch and impact areas; infrared detectors measuring heat from the engine; radars tracking ICBMs in flight; and radios receiving Soviet telemetry signals (the Soviets use telemetry signals to measure the performance of their test missiles in flight, and we use them to deduce technical characteristics of their missiles). The use of multiple sources complicates any effort to disguise or conceal a violation. In the course of 20 to 30 tests of a new ICBM, we collect thousands of reels of magnetic tape and spend tens of thousands of hours processing, analyzing and correlating this vast array of data to determine the characteristics of the new missile.

It is inconceivable to me that the Soviets could develop, produce, test, and deploy a new ICBM in a way that would evade this monitoring network. We have missed some data on some firings—and will in the future. But we have not erred significantly in our assessment of any Soviet ICBM.

The Soviets know that we have a large and sophisticated intelligence operation, and they know a certain amount about how it works. However, they do not know the full capabilities of our collection systems and analytical techniques, and this uncertainty would greatly complicate any Soviet attempt to conceal evasion of the SALT II limits. (It is also a reason for strictly limiting what we say in public about our systems.)

No one can pretend that our intelligence collection capability is perfect, or that there is no room for improvement. No sensor can be expected to catch every Soviet event of interest—but it is just as unlikely that a Soviet cheating program on a significant scale will evade every sensor. I expect the Soviets have a healthy respect for our intelligence capabilities, and that respect will influence their calculations about the costs and possible benefits of cheating.

It is possible for our intelligence system to suffer some gaps in its coverage from time to time. This occurred most recently with the loss of our collection sites in Iran. But these gaps can be filled, and the system's capability restored sufficiently to ensure that its job is done adequately. In recent months a great deal of attention has been given to the impact on verification of the loss of the Iranian sites, and it is useful to place that loss in perspective before turning to the details of specific provisions.

THE IRANIAN SITES AND THEIR REPLACEMENT

It has been suggested that our intelligence system has been fatally crippled by the loss of our stations in Iran. That view represents a misunderstanding of the full extent and capability of our system for assessing the Soviet missile program. In the past two decades, the United States has spent billions of dollars for sophisticated monitoring systems specifically targeted against the Soviet missile program. As a consequence, we have developed an extensive and effective collection network. In fact, all of the data used in the SALT debate—by supporters and opponents—are a product of this capable network.

The Iranian sites provided important information on some Soviet ICBM tests. Their loss reduced, but did not eliminate, our ability to make certain judgments about the tests. Reestablishing all of their capability, which we would want to do with or without a SALT II agreement, may take until 1983 or 1984. Regaining a substantial portion of the capability—the part most needed for SALT verification—is likely to be feasible within a year. During that time, we have a large number of other technical intelligence collection sources which will collect intelligence on Soviet strategic systems.

One interim measure we are considering is the use of U-2 reconnaissance aircraft to monitor Soviet missile tests. However, it is important to keep in mind that U-2 overflights are by no means the only way to replace the Iranian sites' contribution to SALT monitoring.

It is also important to keep in mind that a new strategic weapon takes several years to develop. A new missile, bomber, or submarine represents a major investment in time and money. It is not a simple process. We know from our own experience, and from observing the development of Soviet forces, that building a new strategic weapon system is an expensive and time-consuming enterprise. The weapon system first must be designed, developed, and tested; this phase alone generally takes several years. Eventually the system enters the operational force, and full operational capability may not occur until 10 or more years after development was begun. Throughout the system's operational life it is periodically tested and evaluated.

Each of these stages in the life cycle of a strategic weapon system is susceptible to a different mix of monitoring methods, and each presents a different opportunity for monitoring. Each stage poses a new problem for the side attempting to conceal such a program. A Soviet program to develop a new ICBM would require between 20 and 30 flight tests over a period of years. With existing (let alone with planned) additional collection systems, we would be able to monitor testing and detect violations well before the testing program could be completed.

In sum, I believe the SALT II agreement would be adquately verifiiable if it came into effect today, even taking into account the loss of the Iran sites.

INCENTIVES FOR AND AGAINST CHEATING

As I mentioned earlier, in assessing the adequacy of verification we must also consider the likelihood that the Soviets would be tempted to run the gauntlet and cheat on the limits of SALT II. Theoretically, the incentive to cheat is a function of the value of the strategic gains which a side would expect to achieve from such a program, and the risks and consequences of being caught cheating.

In most areas, the chances of detection are so high that the issue of the utility of cheating would never arise. My own view is that the Soviets would find little advantage in exploiting those areas where our verification uncertainty is greater. This judgment is based on three factors: first, that the US-Soviet strategic balance will remain reasonably stable and durable, so that the Soviet Union will be unable to derive a significant strategic advantage by quantitative or qualitative improvements that might conceivably go undetected. Nothing which the Soviets are capable of doing secretly with their strategic forces would deny us the capability of responding with a retaliatory attack of devastating proportions. The United States has a credible nuclear deterrent today and we will have one in the future, even under the most pessimistic scenarios of Soviet cheating.

Second, SALT II does not halt Soviet strategic force modernization dead in its tracks. There will exist under the terms of the agreement a number of permitted opportunities for the Soviets to improve their strategic forces.

Third. The Soviets have their own—rather than our—uncertainties about our collection capabilities. They cannot be sure of our overall intelligence capability to monitor a SALT II agreement. For that reason, Soviet planners would be likely to make careful and conservative assumptions regarding US verification capabilities.

The Soviets would also have to face the possibility that a clandestine effort could be compromised by a defector, an intelligence source, or an accident which revealed the nature of the activity. The larger the scale of the effort and the longer it went on, the more people would be involved and the greater the possibility of compromise would become. This serves as a further disincentive to cheat.

U.S. "HEDGES"

We have a number of "hedges" available as responses to possible Soviet violation of the agreement. These are actions which we could take to increase the deterrent capability of our strategic forces and to offset any gain the Soviets might seek to achieve. Some would be permitted under SALT II. Others would require a US decision that the Soviets had violated and thereby voided the treaty.

But hedges, when they are real and credible options, not only give us the capability to react to Soviet cheating; they also serve to deter such activity by negating the benefit of any contemplated non-compliance. One quick reaction response would be to raise the alert level of our B-52s and ballistic-missile-carrying submarines. This, though expensive, would provide an immediate and significant increase in the number of weapons which would survive an attack.

There are a number of longer term responses available to us. The development and deployment of strategic offensive systems like the ALCM or the MX could be accelerated to provide their contributions to our force posture at an earlier date than is now programmed. We could adjust our planned MX deployment and basing (particularly by adding hard shelters) to offset increases in the RV force available to attack it. We could also expand the deployment of the MK-12A warhead on the Minuteman III force, or replace some of our Minuteman II missiles with Minuteman III's. Other actions could include steps which would extend the lifetime of the Polaris submarine, and an acceleration of the development of a cruise missile carrier aircraft.

These actions are illustrative examples of US strategic hedges. Some of them we may want to pursue in any event, even in the absence of Soviet violations. Our actual response to a Soviet violation would take into account the nature of the violation, the time available to respond, and the status of our various force improvement programs at the time.

OTHER CONSIDERATIONS

The process of determining the adequacy of verification must also weigh the benefits of a particular provision against the monitoring problem involved. The gains to the United States in some cases—either in permitting flexibility to pursue certain programs of our own or in imposing limitations on Soviet actions—are worth accepting some additional uncertainty in verification.

In several instances we had to consider a trade-off between verification considerations and the impact of the provision on US program flexibility. In some cases we negotiated a provision which allowed us to pursue strategic force options, even though doing so may have marginally increased our monitoring uncertainties. The provisions affecting cruise missiles and mobile ICBMs are the two most important examples of such a trade-off, and I will discuss them in detail later.

In determining how much monitoring uncertainty was acceptable, we also had to consider the importance—to the United States—of securing certain restrictions on Soviet forces. We felt it was desirable, for example, to restrict modifications to existing Soviet ICBMs as much as possible so that the limitation on "new types" of ICBMs would have maximum effect. Without a precise and narrow limitation on permitted modifications, the Soviets could claim that any new ICBM was simply a modification of an existing one. We determined that it was clearly in the US interest to accept some greater uncertainty in monitoring in order to secure

a far more meaningful limitation on "new" Soviet ICBMs.

TREATY PROVISIONS WHICH FACILITATE VERIFICATION

The SALT II agreement is designed to be adequately verifiable by national technical means. It is considerably more complex than the Interim Agreement it replaces. In addition to counting the number of launchers deployed, we must monitor the deployment of launchers for MIRVed systems. We must also monitor such characteristics as the launch-weight, throw-weight, and number of warheads for ballistic missiles, and the range and launch platforms for cruise missiles.

These are not new intelligence responsibilities; they are new only to arms control. We have monitored Soviet missile characteristics since the early days of missile flight history. What is new is the increased importance of such monitoring in light of the provisions of the SALT II agreement. For this reason, the United States successfully pressed for a number of provisions in the SALT II agreement designed to assist verification.

One provision, carried over from SALT I, bans interference with the national technical means used to verify compliance with the agreement. Another prohibits deliberate concealment measures which impede verification. Because many of the provisions of the agreement are verified by monitoring Soviet testing, the ban on deliberate concealment applies explicitly to testing practices as well as to construction and deployment activities. In particular, deliberate denial of telemetric information during testing is prohibited whenever such denial impedes verification. Neither party can unilaterally determine whether denial impedes verification. If questions arise on this issue they will be resolved in the Standing Consultative Commission.

A number of counting rules are included in the agreement to facilitate verification. For example, one rule resolves the difficulty of trying to distinguish launchers containing MIRVed missiles from launchers carrying non-MIRVed versions of the same missile. Another rule counts as a MIRVed launcher any launcher of a type which has ever contained or launched a MIRVed missile. Other counting rules have been worked out for bombers. These rules simplify verification tasks that would otherwise have been much more difficult.

Finally, the two sides have developed a common data base in which each party states the numbers of systems deployed in each of the principal categories limited by the agreement. While the US does not depend upon these numbers for verification, the data will provide an agreed baseline from which to measure compliance with the aggregate limits. The data base will be updated at each semiannual meeting of the Standing Consultative Commission.

AGGREGATE LIMIT

Let me now address our ability to verify compliance with the major provisions of the SALT II agreement. The first issue is our ability to verify compliance with the aggregate limit of strategic nuclear delivery vehicles. Here we have high confidence in our ability to monitor the numbers of fixed ICBM launchers, SLBM launchers, and heavy bombers. I want to stress that this simple sentence covers many of the most significant provisions of the treaty.

ICBM silos are readily identifiable during construction, and take a year or more to build. The missiles themselves require extensive support facilities, including missile handling equipment, checkout and maintenance facilities, survivable communications, and nuclear warhead handling, storage, and security facilities. Our intelligence collectors regularly examine the existing ICBM fields, but in addition they also conduct extensive surveys of the Soviet Union at periodic intervals for evidence of additional ICBM activity. The intelligence community judgment is that we would detect a Soviet effort to deploy a significant number of excess fixed ICBM launchers even if they departed substantially from their current deployment practices.

Facilities for the rapid reload of ICBM launchers are prohibited by the treaty, as are excess missiles at the launch site. A realistic capability to reload a silo launcher rapidly during nuclear conflict would require hardened facilities for missile storage, handling equipment, and crews. Construction of such facilities would be observable.

Turning to SLBMs, ballistic missile submarines are large and complex systems. They are currently constructed in only one shipyard in the Soviet Union. After launch they are fitted out in the open for a period of months before they begin sea trials. We monitor the launch, fitting out, and sea trials of each submarine. We also monitor Soviet ballistic missile submarines at operational bases, at sea, and at overhaul facilities. In addition, we search for evidence of SSBN-related activity at other facilities, and we monitor naval activities generally with a wide range of intelligence collection systems. We are confident we can monitor closely the number of Soviet SLBM launchers.

Heavy bombers are large in size, built at a small number of plants, and deployed at a limited number of operational bases which are closely monitored. The total inventory of heavy bomber type aircraft can be monitored with confidence.

A potential problem that is dealt with in the agreement concerns variants of heavy bomber type aircraft that are used for other purposes. Any future variants are required to have functionally related observable differences which indicate that they are not capable of performing a heavy bomber mission. Existing bomber variants are handled on a case-by-case basis—some will be modified within six months of entry into force; some which we have no problem distinguishing from bombers are exempted from this requirement.

MOBILE ICBMS

We would face somewhat greater uncertainty in our count of mobile ICBMs. The amount of uncertainly depends on the deployment pattern of the system.

The limitation on mobile ICBMs is one of the cases I mentioned earlier in which we faced a trade-off during the negotiations between monitorability and retaining force flexibility. We decided that it was very much in our interest to permit the deployment of a mobile ICBM as a way of dealing with the increasing vulnerability of the fixed-silo Minuteman force. As you know, we have decided to proceed with the MX missile, and to deploy it in a basing mode which will ensure that the number of deployed missile launchers can be monitored.

Taking into account the advantage to the United States of retaining a mobile ICBM option and the details of the monitoring problem, I believe that the verification of mobile ICBMs will be fully adequate. Determining the number of mobile ICBM launchers is more difficult than counting silos, but it is a manageable task. The uncertainty in monitoring the number of deployed mobile ICBMs depends on the deployment mode chosen. For example, the Soviets are now deploying the mobile SS-20 IRBM, and we can estimate the number of launchers deployed with reasonable confidence. If the Soviets made special efforts to conceal mobile ICBM launchers, of if they deployed a system without central support facilities, the uncertainties could be larger. But covert deployment of a force on a scale large enough to be militarily significant would be a formidable task, requiring successful concealment of a large number of deployed launchers, and of their production, support, and training exercises as well, and deployment without central support facilities would entail significant operational disadvantages. Also, concealment measures would themselves be violations if they impeded our ability to count launchers deployed. And we would detect the fact of such attempts at concealment even more easily than we could count the precise number of launchers.

The degree of uncertainty in verifying the number of mobile ICBMs deployed can be sharply reduced if a system is designed with verification in mind. In planning our own land-mobile ICBM, we have devoted considerable effort to devising deployment schemes which permit the other side to monitor the number of launchers deployed, even though not knowing exactly where they are at any one time. This same situation already exists for SLBM launchers and heavy bombers. We would insist that any Soviet mobile ICBM system permit adequate verification of the number of launchers deployed.

One specific concern about the clandestine deployment of mobile ICBMs is the possibility that the Soviet SS-16 ICBM could be deployed on SS-20 mobile IRBM launchers. To resolve this problem, the Soviets have agreed not to test, produce, or deploy the SS-16. We believe that we could detect over time any significant violation. Given their relatively small size and poor accuracy, deployment of SS-16s would not add significantly to the Soviet strategic forces in any case. Moreover, the diversion of SS-20 launchers to SS-16s would substantially reduce the capabilities of the Soviet theater nuclear forces.

In light of all these considerations, we believe that the advantages of keeping the mobile ICBM option open far outweigh the increased complexity of monitoring. The potential monitoring uncertainty is a small percentage of the total force capability on either side, and is acceptable.

MIRV LIMITATIONS

We have confidence that we can monitor the number of launchers of ICBMs and SLBMs equipped with MIRVs. Again I stress that this judgment covers several of the most significant provisions of the treaty.

The Soviets have always tested their missiles (both in R&D and training phases) from launchers that are identical to the operational launchers for that type. Any change from this practice would reduce both missile reliability and raise questions about concealing the association of missile and launcher a practice prohibited by the Treaty.

I have already mentioned the MIRV counting rules which substantially ease the task of monitoring such systems. One such rule requires counting as MIRVed missiles all those missiles of a type which has been tested with MIRVs. This is required even if that missile type has also been tested with a non-MIRV payload.

These rules also count as MIRV launchers all launchers of a given type once any one has contained or launched a MIRVed missile. The launchers associated with each of the Soviet MIRVed missiles are distinctive, and the MIRV launcher types can be readily distinguished from non-MIRV types. The agreement stipulates that future launchers not equipped for MIRVed missiles must be distinguishable from MIRVed missile launchers, and vice versa. If they are not, such launchers would count as MIRV launchers.

LAUNCH-WEIGHT, THROW-WEIGHT, AND NUMBER OF RE-ENTRY VEHICLES

At the present time, we can continue to monitor the launch-weight and throw-weight of ICBMs tested in the Soviet Union.

While the uncertainties are somewhat larger than they were when the Iranian sites were functioning, we are still able to detect significant changes in launch-weight and throw-weight over the course of a flight-test program. The uncertainties would be smaller for monitoring changes to existing ICBMs on which we have built up a considerable base of information than for the one new type ICBM permitted by the agreement.

The deployment of additional collection systems in the near term could enhance our ability to monitor launch-weight and throw-weight. A new or significantly modified missile requires a number of flight tests over a period of years before it is deployed. Significant evasion of the launch-weight and throw-weight limits would likely be detected during this test program. The Soviets would gain little militarily by exceeding the launch-weight and throw-weight limits by amounts that we may not be able to detect, and would risk challenge in the Standing Consultative Commission.

As for the number of reentry vehicles, we can determine accurately the number of RVs released from a missile during flight-testing. However, the Soviets might deploy ICBMs with a greater number of RVs than had ever been actually flight-tested on that missile. The SALT II agreement deals with this problem by limiting certain test practices which could be used to demonstrate procedures to release more RVs than were actually tested. We currently can monitor the maximum number of RVs tested on existing missiles, and planned future collection systems will allow us to continue to monitor the maximum number of RVs on future Soviet missiles. Furthermore, potential increases in the number of RVs on existing types of ICBMs are also restricted by a provision banning the flight-testing or deployment of an ICBM with an RV lighter than the highest RV which has been flight-tested on an ICBM of that type.

NEW TYPES OF ICBMS

The agreement limits each side to one new type of ICBM. New types of ICBMs are distinguished from existing types on the basis of launchweight, throw-weight, number of stages, propellant type (liquid or solid), length, and maximum diameter. Launch-weight and throw-weight are characteristics which I have already discussed. We have good monitoring capability for the remaining features: number of stages, propellant type, and dimensions.

In order to distinguish between new types and modfications to existing types, a line must be drawn between the two. The agreement does this by specifying the amount by which certain features of an existing missile may be changed before it becomes a new type. Any change in the number of stages or propellant type, or any difference of more than 5 percent in launch-weight, throw-weight, overall length or largest diameter qualifies an ICBM as a new type. Over the period of a test program for a new or modified ICBM we could detect significant deviations from these limits. Here again some small transgressions of the limits on missile modification fall within the area of our monitoring uncertainty. Such violations would not, however, affect missile capability in any significantly threatening way, particularly since increasing the maximum number of RVs is subject to a separate limitation, and is verifiable. In the absence of a SALT II agreement, the Soviets could modify existing missiles, develop new ones, and deploy both, all without limits.

The "new types" provision allows the US to test and deploy the MX, and, if we desired to do so, to make some modifications to the Minuteman III. This provision will, however, probably have a more significant impact on the Soviets. The rule will force them to choose between replacing the SS-11 with a new, larger (possibly solid-fueled) non-MIRVed missile, or replacing the SS-17 and SS-19 with a 10-RV MIRVed missile. They cannot do both. We will be able to determine with confidence that the Soviets are complying with this limitation.

CRUISE MISSILES

This is another area in which there are some monitoring uncertainties. It is also very definitely an area in which the US negotiating position emphasized preserving future force options.

We have a good understanding of the numbers, characteristics, and capabilities of current Soviet cruise missiles, even though cruise missile range is difficult to define and estimate precisely. If the Soviets continue their present practices for the development and deployment of cruise missiles, we expect to maintain our present level of understanding. If the Soviets altered this current practice, our estimates of cruise missile range capability could be subject to considerable uncertainty.

This uncertainty is acceptable because we believe the Soviets have little incentive for cheating on cruise missile range limits. The agreement provides both sides with enough flexibility to pursue long-range cruise missile programs without cheating.

Since all limits on SLCMs and GLCMs expire with the Protocol, and the range of cruise missles deployed on heavy bombers is unconstrained for the entire treaty period, the most important monitoring task for cruise missile ranges after the Protocol is to determine that ranges of cruise missiles deployed on aircraft not counted in the 1,320 limit have a range capability of less than 600 km.

Our confidence in verifying the limits on ALCM numbers is considerably higher than for cruise missile range limits. Bombers equipped for long-range cruise missiles are counted in the 1,320 limit. As the MIRVs, there are counting rules to distinguish aircraft equipped for ALCMs from those which are not. The association of an ALCM with its carrier aircraft is made as early as the flight-test phase.

BACKFIRE

We can estimate the number of Backfire aircraft produced with confidence in the same way we estimate the number of heavy bombers.

We could detect a significant upgrade in Backfire's capability either by a physical modification of the aircraft, or a reorientation of the Backfire force toward intercontinental missions. Careful observation of the testing of Backfire, its deployment patterns, and training and exercises with this aircraft indicate that Backfire is assigned a theater and anti-ship role. However, the aircraft does have an inherent capability to perform some intercontinental missions. Improving its capability for such a mission would probably require changes in the aircraft's deployment pattern or training activity which could be monitored. Moreover, the additional strategic capabiilty which the Backfire could provide would be at the expense of a substantial loss of theater and anti-ship capability from such a change in the role of this aircraft.

I would also note that we were able to extract some important limitations on the Backfire from the Soviets. They have agreed to freeze its production rate at 30 per year; they have agreed to improve its intercontinental capability. Any more direct and restrictive limitation on Backfire would inevitably have brought into the negotiations on SALT II our forward-based systems which are marginally capable of reaching the Soviet Union. We have insisted throughout SALT that these systems are not for negotiation between the United States and Soviet Union alone. The acceptability of the verification uncertainties have to be considered in the light of these factors.

Given this negotiating history, and the factors that reduce the incentives tempting the Soviets to cheat on the Backfire assurances, I find our uncertainties in this area acceptable.

COVERT DEPLOYMENT IN PERSPECTIVE

Some observers have disputed the judgment that the provisions of SALT II can generally be monitored with high confidence. They suggest that it would be a fairly simple exercise for the Soviets clandestinely to deploy significant numbers of strategic forces. They imply that the U.S. intelligence community has developed a false confidence in its monitoring capabilities because "we have never found anything that the Soviets have successfully hidden."

This tautology, like all such statements is true on its face. But it is gravely undermined as a practical argument by our experience in the real world. The fact is that we have never found a strategic weapon system that the Soviets had successfully hidden for a period of time. If the Soviets had embarked on a significant clandestine deployment of strategic forces, we would expect to have discovered—at some point since the beginning of the missile age—a strategic weapon program which had been operational for some time, or an occasional example of attempted concealment which was not entirely successful. That has not been the case, and that fact does give us confidence in our collection capabilities and analytical techniques. We have had—and will continue to have—disputes over the meaning of the data we collect, but we have had remarkable success in monitoring Soviet strategic forces over the last 25 years. We have detected every ballistic missile and heavy bomber as soon as it entered the flight-test phase. Most of these systems were detected even earlier.

In short, throughout our years of monitoring Soviet forces we have observed no grain elevators being loaded with ICBMs, no SLBM launchers being installed on fishing trawlers. One theoretical explanation is that the Soviets are doing an extraordinary job of concealment—with absolutely no breaches of security or inadvertent disclosure of what would be a substantial effort. The other far more plausible interpretation is that Soviet clandestine deployment of strategic forces, if it exists at all, is at such a low level as to be strategically insignificant.

COMPLIANCE AND REACTION TO VIOLATION

In considering Soviet compliance with the provisions of SALT II, it is important to keep in mind that there is a difference between detection of a violation and enforcement, bringing a detected violation to an end. The SALT II Treaty will not be enforced in the courts; the mere existence of a provable violation does not bring it to an end. Conversely, the issue is not whether we could prove a case to a jury. We do not need proof beyond a reasonable doubt, nor even evidence we can discuss in detail, to challenge Soviet action.

Our initial course, if we were concerned about a possible violation, would be to discuss any ambiguous situation with the Soviets in the Standing Consultative Commission (SCC). In appropriate cases we could also raise the issue in higher level diplomatic channels. We come to SALT II with more than six years of experience with the SCC. Over the years both sides have raised questions concerning activities of the other side. On several occasions we observed activity which raised questions with respect to Soviet compliance with the agreements. We raised these issues promptly with the Soviets, and in every case the activity ceased, or subsequent information clarified the situation and allayed our concern. As a result of our record of raising questions in the SCC, the Soviets are well aware that we will call

them to account in SALT II for any questionable activities related to their strategic programs.

My own belief is that the Soviets are more likely to attempt to exploit the ambiguity of various provisions and understandings (and there has been a very considerable effort to make these substantially less in SALT II than in SALT I) than they are to try to find ways to test our verification capabilities by cheating. This was certainly our experience in SALT I. The ambiguities were greater in SALT I, and the limitations less detailed—but our monitoring capabilities are even better now than they were at the time.

We will expect satisfactory resolution of any problems encountered under SALT II. If we do encounter problems and present them to the Soviets, they may be able to explain satisfactorily the ambiguous activity. Or they may stop the activity in question.

It must be acknowledged, however, that in international agreements the only ultimate enforcement mechanism is our own actions, either to produce agreement by the other side to cease and correct the problem, or to offset the consequences by our own unilateral steps. If a problem is not resolved to our satisfaction, a number of courses are open to us. We could take actions permitted under SALT which would have the effect of offsetting the Soviet action. We could insist on taking certain actions ourselves outside the Treaty to compensate militarily and politically for the violation.

Our ultimate remedy would be termination of SALT II agreement. That is a step we would not take lightly. However, if a problem were not resolved or if we detected a violation which threatened our security, I would not hesitate to recommend to the President that we take whatever steps necessary to meet the threat—including, if need be, the ultimate step of Treaty abrogation.

OVERALL ASSESSMENT

In assessing the significance of our monitoring uncertainties, I have assumed (and believe) that we will recover from Soviet missile testing the telemetry that is relevant to SALT limitations. Given this assumption, I believe that all of the uncertainties we face are acceptable risks. The United States will maintain forces and programs capable of being accelerated so as to offset any potential Soviet violation. These US hedges mean that the Soviets must count on a low payoff—very likely a negative payoff—for any contemplated cheating. Finally, all of the uncertainties we face in SALT II would be far worse without an agreement because Soviet concealment practices would then be unconstrained. SALT actually serves to reduce our uncertainties about Soviet strategic forces.

In my judgment, we can adequately verify compliance with every provision of SALT II. In assessing the adequacy of verification, it is important to consider the total agreement rather than is particular provisions taken separately. To determine whether the agreement as a whole is adequately verifiable, we should also ask ourselves whether the Soviets could exploit the monitoring uncertainties of several individual provisions, even if each is judged as adequately verifiable, in a way that would affect our national security interests. This perspective asks, in effect, what would the Soviets have to do not just to cheat and (perhaps) to get away with it, but what they would have to do in order to gain an advantage in the strategic balance by cheating. In such a context, the probability of detecting the fact of cheating increases markedly as the number of provisions being violated increases. The high likelihood of detecting significant cheating on individual limitations and our ability to detect the fact of even small cheating of it is attempted over a period of time on a number of provisions enhances our monitoring confidence.

The Soviets would also have to take into account the possibility that any clandestine effort to violate the terms of SALT II could be comprised by a defector, an intelligence source, or accidents which reveal the nature of the activity. The larger the scale of the effort and the longer it went on, the more activity would be involved and the greater the possibility of compromise would become.

In short, there is a double bind which serves to deter Soviet cheating. To go undetected, any Soviet cheating would have to be on so small a scale that it would not be militarily significant. Cheating on such a level would hardly be worth the political risks involved. On the other hand, any cheating serious enough to affect the military balance would be detectable in sufficient time to take whatever action the situation required.

This testimony lays emphasis on the issue of verification; correspondingly I have emphasized my conviction that the Treaty now before the Senate meets the tests of adequate verifiability. But SALT II does more than this. It actually enhances our ability to gather intelligence on Soviet strategic forces. The treaty forbids interference with our SALT-related intelligence systems and prohibits deliberate concealment which would impede verification. Without SALT II, we could be faced with concealment, countermeasures, plus all the actions that would be considered "cheating" under the agreement. Without SALT all of these actions would be permitted; with SALT they are all prohibited. The SALT II agreement does not present a verification problem. On the contrary, it improves our ability to gather strategic intelligence and enhances our national security.

I believe that cheating on a scale large enough to affect the strategic balance would be discovered in time to make an appropriate response. For these reasons, and others noted in this testimony, I am confident that the SALT II agreement, taken as a whole, is adequately verifiable.

STATEMENT OF THE HONORABLE GEORGE M. SEIGNIOUS II, DIRECTOR, UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY, BEFORE THE COMMITTEE ON FOREIGN RELATIONS, UNITED STATES SENATE, JULY 18, 1979

Mr. Chairman, I am honored to testify today before this Committee regarding the verifiability of the SALT II agreement. I fully recognize the gravity and seriousness of this subject.

I want to begin today by making five key points.

Point One: After careful study, I have concluded that SALT II as a whole, and in its parts, is adequately verifiable. As required by Section 37 of the Arms Control and Disarmament Act, I now formally certify this conclusion, and I have provided for you today a classified report that discusses the verifiability of SALT II. Furthermore, I believe that SALT II will be adequately verifiable from the day the agreement enters into force.

Point Two: SALT II does not depend on trust. No nation bases its national survival on trust, and I would not be here today before you if I thought that trust was an element of SALT II.

Point Three: Our national verification capabilities are impressive and mutually supportive today. We must have, and we do have, specific programs to enhance them even further.

Point Four: SALT II, and indeed the entire process of strategic arms negotiations, actually enhances the knowledge we have about Soviet strategic nuclear forces and other forces not constrained by SALT. It makes our intelligence task easier than would be the case without SALT.

Point Five: The record of SALT I shows that we have been vigilant in pursuing questions of Soviet compliance. This will continue to be the case under SALT II. Abrogation of the Treaty is, of course, the ultimate recourse, and we must have the national will to follow that path if we believe that Soviet actions grieviously threaten our security.

Verification is the process by which we determine whether the Soviet Union is living up to its obligations under SALT. SALT limitations, however, are not absolutely "verifiable" or "unverifiable." The relevant question is whether the SALT II Treaty is adequately verifiable: that is, are we confident that our verification capability is sufficient to ensure that any Soviet non-compliance will be detected before it can pose a significant military risk or adversely affect the strategic balance.

The criterion of "adequate verification" has been national policy since SALT I began:

In 1969, President Nixon approved instructions that said: "Any agreed measure must be subject to adequate verification;"

In 1973, in Washington, President Nixon and Soviet leader Brezhnev signed a document called "Basic Principles of Negotiations" for SALT that again required "adequate verification;"

In 1974, "adequate verification" remained the standard under President Ford when our SALT delegation received its instructions; and

In 1977, Congress established the standard of "adequate verification" in Section 37 of the Arms Control and Disarmament Act. This section states: "It is the sense of the Congress that adequate verification of compliance should be an indispensable part of any international arms control agreement."

SALT II has been designed and negotiated to be adequately verifiable. We never put a SALT proposal on the negotiating table without first considering our ability to verify that proposal. And we never accepted a Soviet proposal without giving it the same consideration. One of my strongest impressions as Director of the Joint Staff of the Joint Chiefs of Staff, as a member-at-large of the SALT Delegation, and in my present position has been the unanimity of the U.S. Government in eschewing any reliance on trust or faith in the Soviet Union as a substitute for verification.

No matter how excellent our intelligence capabilities, there will always be some uncertainties. In judging verification risks, we have taken many factors into account: (1) the capabilities of our existing and projected intelligence-collection systems and analytical techniques; (2) the measures the Soviets could take to evade detection; (3) the costs and risks to the Soviets of any attempt to evade the limits; (4) the military significance of potential violations; and (5) the capability of the United States to take appropriate and timely counter-measures to offset the effects of potential Soviet non-compliance.

With these factors in mind, I have reached the conclusion that SALT II is adequately verifiable. This is based on the judgment that we have high confidence in our ability to detect significant Soviet violations. In my opinion, any cheating which could affect the strategic balance would be discovered in time for the United States to make an appropriate response. In view of U.S. programs and our resolve to challenge any questionable Soviet activities, the areas of uncertainty are not such as to permit the Soviets to produce a threat to United States national security.

I said at the beginning that in SALT we do not rely on trust. The myth that SALT and trust go together is a myth and only a myth. We do not rely on faith, or hope, or the Soviets' signature. To put it bluntly, we are dealing with our principal adversary.

We rely on our own independent, national intelligence capabilities. We survey the So-

viet Union regularly, thoroughly and accurately with a vast array of sophisticated and powerful intelligence-gathering systems, such as photo-reconnaissance satellites, radars, and other monitoring devices in space, on land, on sea, and in the air. The result is a network of collection systems, which provide us with redundancy and which complement each other in their coverage of the Soviet Union.

We have spent billions of dollars on these systems, and it has been money well spent. I find our intelligence capabilities truly astonishing in their technological capacity—especially to a soldier who began his career in World War II, when we seldom knew what was happening six hundred yards behind enemy lines, let alone six thousand miles away.

Although the exact nature and capabilities of these intelligence systems are highly classified, I can illustrate their effectiveness by outlining the kinds of information we receive from them.

For example, we know where the Soviets build their submarines. It takes several years to construct a ballistic missile submarine. We carefully observe it during this period. We count its missile tubes as they are being built, and we determine which types of missiles will be installed in those launchers. When the Soviets launched their latest Delta class strategic missile submarine, it was no surprise. We had been aware of its construction for years.

Similarly, we know where Soviet ICBM launchers are deployed and what types they are. We observe new missiles as they are flight-tested, and they are tested extensively. We know whether a missile is tested with one warhead or more than one. We can count the number of Soviet reentry vehicles as they reenter the atmosphere.

We monitor the conversion of older Soviet ICBM launchers so they can handle their new MIRVed missiles. Well before the conversion is finished and the launcher is again operational, we know not only whether it is a launcher for a MIRVed missile—but also the type of MIRVed missile it is designed to contain.

In the case of Soviet heavy bombers, we have an adequate count of how many bombers there are, where they are produced, and where they are based. We can observe important modifications that are made to these bombers.

A good measure of the overall capabilities of our intelligence collection system is the detailed information published each year in the Secretary of Defense's report to the Congress. Indeed, the numbers used by opponents and proponents of SALT alike are based on information acquired by our national intelligence collection systems. Not one bit of this information has been volunteered by the Soviet Union. It has been gathered entirely by ourselves.

Several factors help us in verifying the provisions of SALT II:

One factor is time. Many of the systems limited in SALT are very large and complex and cannot quickly be constructed. For example, it takes many months to construct an ICBM silo launcher and years to develop and deploy a new missile. This gives us time to monitor activities.

Another is reliability. New strategic systems have to be tested to have operational reliability. We can observe these Soviet tests.

And a third factor is support requirements. Strategic systems need personnel to run them and extensive logistic and security support. These requirements compound the task of keeping deployments hidden, and they increase the chance that we will detect them, especially if such activities were to take place in significant numbers. Some charge that the Soviets could stockpile extra missiles and then one night change the strategic balance. Let me say that it is one thing to produce a missile in a factory; it is quite another to have the trained personnel, the logistics, the large amounts of heavy equipment to handle the missiles and the launchers themselves—without our being able to spot them.

I might add that the Soviets, if they wanted to violate the provisions of SALT II, would face another difficulty—uncertainty. Our use of multiple intelligence sources complicates any Soviet effort to disguise or conceal important activities. The Soviets know that we have a large, sophisticated intelligence operation, and they know a certain amount about how it works. They do not, however, know the full capabilities of our collection systems and analysis techniques. This uncertainty will further complicate any Soviet attempt to conceal an evasion of the SALT II limits.

In assessing the capabilities of our network of collection systems, it is important to recognize that intelligence is a dynamic process in which our effort will need continual improvement. We must be prepared to take the necessary actions to exploit the new opportunities that advancing technology offers us, and to offset the loss of sources, as happens from time to time. The recent loss of important intelligence stations in Iran is a clear example. Because of our extensive capabilities, we continue to be able to monitor adequately the testing of Soviet ICBMs, although some uncertainties are temporarily larger than we would like.

As you know, we are aggressively pursuing a number of alternatives and specific programs to collect the information formerly gathered in Iran in order to reduce these uncertainties to their former level. We expect to do this before a test program for any new or modified Soviet strategic missile could be completed.

As intelligence is a dynamic process, so must be verification. As weapons systems become more and more sophisticated, we must negotiate verification provisions to keep pace with them. Good examples of how this has taken place in SALT II are the various counting rules, such as those for MIRVs, bombers, and cruise missiles.

Verification is, and must be, an evolving process. As we pursue arms control measures more difficult to verify by national technical means, our ability to reach agreement may well depend upon our ability to negotiate procedures which allow access to information unobtainable unilaterally, but which is essential to verification. I signal this today not as a requirement for the present but as a possible harbinger for the future.

The limits of SALT II, however, are adequately verifiable with our own national technical means. By restricting launchers and not missiles, by ingenious counting rules, we have no imperative need for more intrusive measures in SALT II. On-site inspection is not required for adequate verification of SALT II. The proponents of on-site inspection oversell the alleged advantages of such inspection. For example, the SALT II MIRV counting rules, which I will discuss in detail later, are a better device than on-site inspection for counting MIRVs. We are able to use these rules to count Soviet MIRVs on a total, national basis. We will not have to rely on inspectors who can be deceived and who cannot watch all of the launchers all of the time.

We would monitor the Soviets even if there were no SALT agreement. It is essential for us to have good, solid intelligence on Soviet strategic forces, totally apart from any arms control agreement. In fact, only a portion of the total intelligence we collect on Soviet strategic forces is related to SALT limits.

There are specific provisions in SALT II, proposed by us and accepted by the Soviets, that make the job of monitoring the Soviets easier than it would be without SALT.

Under SALT II, the Soviets will not be allowed to interfere with the intelligence systems we use to verify SALT.

Under SALT II, deliberate concealment, including encryption of telemetry, which impedes verification of compliance is banned This ban applies not only to concealment of construction and deployment of systems limited by SALT but also to concealment of testing of those systems, because some provisions are verified by observing testing. Without this ban, the Soviets could use any and all means of concealment.

Under SALT II, the production, testing, and deployment of the Soviet SS-16 ICBM, and its unique components, are banned for the Treaty period. This ban precludes difficulties that would have arisen in distinguishing it from a Soviet shorter-range missile that is not limited by the Treaty. The SS-16, I want to stress, is the only ICBM that has been assessed to have been tested from a mobile launcher.

Under SALT II, neither side is allowed to conceal the association of a missile with its launcher. Without this provision, it would be much more difficult for us to assess which missile goes with each type of launcher.

These are just some of the SALT II verification provisions. Without them, it could be much more difficult to collect needed intelligence on Soviet strategic programs. Without the bans on concealment and interference, we could find it much harder to determine how many strategic missiles and bombers they are deploying, and what their military capabilities and characteristics are. The Soviets would be free to take steps to complicate our ability to predict accurately the size and capability of Soviet strategic forces.

No leader, military or civilian, wants to plan with less rather than more information about an adversary. I believe that in SALT we have used verification to good advantage—for our own security, for strategic stability, and to help turn uncertainty into confidence.

That is a clear, specific example of the contribution arms control can make to our national security.

We have over six years experience verifying Soviet compliance with SALT. The Soviet record during SALT I has been carefully reviewed and analyzed. In every case of questionable activity that we raised with the Soviets, the activity ceased or additional information has allayed our concern.

As an example of the seriousness with which the Soviets have taken ther responsibilities under SALT, they have dismantled ballistic missile submarines in order to place newer class submarines at sea and still stay within the limits set by SALT I in 1972. Peferectly good submarines, newer than some of our own ballistic missile submarines now in service, have been withdrawn from the Soviet strategic inventory to comply with SALT.

The question has been asked: "What do we do if we discover a Soviet violation or if we even suspect one?" As a result of the SALT I agreements in 1972, we established at Geneva a U.S./Soviet Standing Consultative Commission (SCC) where any compliance questions, any suspected activities, can be challenged at once. We thus have an established forum where even the slightest suspicion of a violation can be raised with the Soviets. This fcrum has worked well under SALT I.

Some also question whether we actually would challenge the Soviets if they appeared to be in violation of SALT II. I believe our record under SALT I is solid proof that we would. We have not been hesitant to challenge the Soviets about questions of concern to us—eight times. The fact is, however, that there is not one outstanding challenge that we have made against the Soviet Union that has not been resolved to our satisfaction. If a violation persisted

without correction or if a violation threatened our security, then we could abrogate the agreement and build the forces necessary to meet the threat. This would be a very serious development, and the Soviets know it.

Within the U.S. Government, procedures have been established for monitoring Soviet performance and for dealing with matters related to compliance. All intelligence information is carefully analyzed in the context to the provisions of SALT, and recommendations on questions which arise are developed by interagency intelligence and advisory groups within the National Security Council system. Currently, these are an intelligence community steering group on monitoring strategic arms limitations and the Standing Consultative Commission working group of the Special Coordination Committee of the National Security Council.

Should analysis of intelligence information indicate that there could be a question concerning compliance, this latter group reviews and analyzes the available information and provides recommendations. The President decides whether a particular question or issue is to be raised with the U.S.S.R. based on the study and recommendations of the department and agency principals who comprise the Special Coordination Committee or the National Security Council itself. After the discussion of any question is opened with the U.S.S.R. in the Standing Consultative Commission, the positions and actions taken by the U.S. representatives are also guided in the same manner.

SALT II was constructed with verification in mind. Indeed, during more than six years of negotiations, verification issues have probably received more attention and more effort than any other single aspect of SALT policy. Every new idea was scrutinized in terms of our present and projected monitoring capabilities.

The SALT II agreement is adequately verifiable because we insisted that it be so. In several instances, provisions enhancing verification took months or years of hard bargaining before the Soviets agreed to them. I would like now to give several examples.

In SALT II, there will be rigorous counting rules to solve such problems as determining which missile launchers have missiles that carry multiple independently targetable warheads—or MIRVs—and which do not. While it is difficult to determine whether a particular Soviet missile is MIRVed, we can monitor the unique types of Soviet missile launchers with high confidence. In essence, the MIRV launcher counting rule states that if a launcher has ever contained or launched a MIRVed missile, all launchers of that type must be counted as MIRVed. This is coupled with a rule that any missile of a type that has ever been tested with MIRVs counts as a MIRVed missile. The practical result of these rules is that all potentially MIRVed Soviet missile launchers must be considered as MIRVed under SALT, even though these launchers may actually contain only missiles with one warhead. These counting rules exemplify how this Treaty has been constructed to allow us to utilize our monitoring capabilities most effectively.

We arrived at this solution to MIRV verification only after many years effort. When the United States entered into negotiations with the Soviets on this issue, we proposed limits on MIRV launchers as well as verification rules to enable an accurate and unambiguous count of these launchers. We insisted that such rules for MIRVed missiles and their launchers were essential. Although the Soviets resisted for several years, they eventually agreed to these rules. And they also agreed that the rules would cover missiles and launchers at two missile bases called Derazhnya and Pervomaysk, where some unMIRVed missiles were deployed in launchers which we could not distinguish from MIRV-type launchers. This was a significant Soviet concession which assured our ability to verify adequately the MIRV launcher limits. It meant for the Soviets that about 100 Soviet launchers at Derazhnya and Pervomaysk with unMIRVed missiles had to be counted as launchers of MIRVed missiles.

Another example of the important role played by verification considerations in the SALT II negotiations is the limitation on telemetry encryption. We sought Soviet agreement that encryption of telemetry which impedes verification would not be permitted under the prohibition on deliberate concealment measures. For a long time, the Soviets resisted. However, the United States insisted that the Treaty contain specific language making clear that deliberate telemetry denial, such as by encryption, would be prohibited whenever it impedes verification of compliance with the provisions of the agreement.

At the Geneva meeting between Secretary Vance and Soviet Foreign Minister Gromyko in December 1978, the Soviets finally agreed to a provision that deliberate denial of telemetric information is prohibited whenever such denial impedes verification of compliance. At the Summit in Vienna, we again received explicit confirmation, this time from President Brezhnev, who agreed that there must be no encryption of information involving parameters covered by the Treaty.

This most certainly does not mean that the Soviets are free to decide whether or not telemetry encryption impedes verification. We have established a clear basis for raising with the Soviets any instance of encryption which impedes our verification, while protecting sensitive U.S. intelligence sources and methods.

The agreement on this issue does not ban all telemetry encryption. We have monitored telemetry from Soviet missile tests for many years, and we have developed complex analytical tools for evaluating that telemetry. Accordingly, we know what types of data are important for verification, and if those data are denied, we can make that determination. We had a sound basis to demand that the Soviets agree not to conceal data related to the provisions of the agreement. We were successful. We have no basis in the Treaty for demanding data not related to the provisions of the agreement.

A third example concerns the limits on what we call missile "fractionation," or the number of warheads on ICBMs, SLBMs, and air-to-surface ballistic missiles. Fractionation limits promote a major U.S. SALT objective, which is to keep the Soviets from fully exploiting the potential of their land-based ICBMs. The Soviets could realize substantial benefits from their recent improvements in accuracy if they could add more warheads to their current and projected ICBMs.

The Treaty, however, will:

Freeze the number of warheads on existing types of ICBMs;

Establish limits on the number of warheads on the one permitted new type of ICBM and on SLBMs and air-to-surface ballistic missiles;

Ban testing and deployment of lighter warheads, which could be used to circumvent the fractionation limit; and

Require that future warhead release simulations must count toward the permitted number of warheads for each type.

The United States can adequately verify these provisions. The Soviets long resisted them and agreed only in the final period of negotiations. On some of the key verification provisions, we negotiated right down to the final days of the talks and got the Soviets to agree to our position. We didn't blink.

During the SALT II negotiations, we have also had to consider the tradeoff between verification considerations and the need to ensure that we would be able to take the necessary steps under SALT II to maintain strategic equality. For example, it would be easier to verify a total ban on all cruise missiles than it will be to verify some of the cruise missile provisions in the agreement, such as those which temporarily limit the range of deployed ground- and sea-launched cruise missiles to less than 600 kilometers. However, the United States decided that, on balance, it was in the interest of our national security to be allowed to pursue these programs, even though allowing the Soviets the same options may complicate verification in the future. Mobile ICBMs are an area where we made a similar choice, deliberately preferring to keep important military options open to us, at the price of a potentially more difficult verification job.

In my testimony today, I have touched on only a few examples of our ability to verify Soviet compliance with SALT II.

In the course of these hearings, additional information is being made available to the Committee in testimony by Secretary of Defense Brown and Director of Central Intelligence Turner and in other testimony and written reports. In making my certification of adequate verifiability, I have leaned heavily on the assessments of the Secretary of Defense, the Director of Central Intelligence, and the General Advisory Committee on Arms Control and Disarmament. Additionally, and importantly, I have taken into account the conclusion of the Joint Chiefs of Staff that SALT II is adequately verifiable.

As I look back over the course of SALT I and SALT II, I am impressed by how far we've come, as well as how far we still must go.

I am impressed by the degree to which the Soviet Union has conceptually and practically moved in our direction on verification.

I am impressed that, for the first time in the history of strategic arms negotiations, the Soviets will provide figures on their own offensive forces as part of an agreed data base, figures which we will be able to verify independently and figures which the Soviets must update on a regular basis. Acceptance of this data base overturns a tradition of centuries of Russian secrecy. It provides a clear, agreed baseline on which to judge treaty compliance and from which future negotiated reductions can be made. It will serve to assure that both Parties interpret the provisions of SALT II in the same way.

I am impressed that under SALT II the Soviet's SS-16 ICBM will be banned.

I am impressed that under SALT II the Soviets will not be able to interfere with our monitoring of their strategic forces.

I am impressed that under SALT II the Soviets will not be able to conceal their strategic forces—an action that, without SALT, would be in their favor considering their closed society and enormous land mass.

I am impressed that without SALT II, every one of these and many other advantages would be lost.

Thank you, Mr. Chairman.

STATEMENT OF W. AVERELL HARRIMAN ON THE SALT II TREATY, BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE, JULY 19, 1979

Mr. Chairman and members of the Committee, I appreciate greatly the opportunity to testify before this Committee on a subject in which I have been involved for many years—the control of nuclear weapons.

In fact, I accompanied Prime Minister Churchill on his visit to Washington to see President Roosevelt shortly after Pearl Harbor in December 1941. Among the members of his staff, he brought with him his scien-

tific advisor, Frederick Lindemann (later Lord Cherwell). Churchill proposed to Roosevelt the urgent need to develop an atomic bomb before Hitler. Churchill offered to pool the British scientific knowledge with ours. Following these discussions, the Manhattan Project was launched. Fortunately, Germany was overrun before Hitler's scientists achieved a breakthrough on an atomic bomb.

I was with President Truman at Potsdam when he first learned of the success of the Los Alamos test in July 1945. Later I was involved in his efforts to control the atomic bomb in the United Nations through the Baruch Plan.

In July 1963 under President Kennedy, I headed the American team that negotiated the Limited Test Ban in Moscow with Premier Khrushchev.

I visited Moscow in 1965 for President Johnson, and Premier Kosygin raised the subject with me of the need for an agreement between the United States and the Soviet Union for the control of nuclear weapons. I recall Kosygin stating that we both had the capacity to kill each other many times over, and he remarked, "What difference does it make if one can do it 21 times and the other only 19 times?" President Johnson later discussed the need for an agreement with Premier Kosygin when the latter visited him at Glassboro in 1967.

I was in Paris in August 1968 when President Johnson had agreed to meet Kosygin at Leningrad to start nuclear negotiations. Our ambassadors to the NATO countries had received instructions to notify their host governments of the planned meeting. These instructions had to be cancelled that very morning because of the Soviet entry into Czechoslovakia. It is a tragedy that these talks did not begin in 1968, as it was before we had developed the MIRVs and our mutual capabilities were very much less than they later became.

You are, of course, fully familiar with the successful meetings which President Nixon had with General Secretary Brezhnev in 1972, leading to the important agreements on ABMs and on SALT I.

I want to emphasize that the delays in discussions have led to greater difficulties in subsequent talks because of the rapidity with which scientific development produced more deadly weapons.

I think it is significant to point out that Khrushchev was prepared in 1963 to agree to a complete Comprehensive Test Ban. Verification was the principal obstacle from our standpoint. With the state of our technology at that time, we could not determine for sure the difference between an underground nuclear explosion and an earthquake. We therefore asked for on-site inspection and the establishment of the so-called "black boxes" which would be strategically placed and available to us. We demanded seven on-site inspections and Khrushchev offered three. Jerome Weisner, now President of M.I.T., was at that time President Kennedy's scientific advisor. Weisner urged taking the risk of not being sure of verification, as he thought any cheating would be of relatively little value and that our technology could be developed rapidly in order to distinguish between the two types of explosions. Other scientists held the same view, but verification won the day; we had to be satisfied with a Limited Test Ban. If only we had followed the wisdom of Dr. Wiesner and the other scientists, think how greatly the whole development of nuclear weapons would have been restrained by the prohibition of testing. Our own lead in weapons technology would in all probability have held.

I have been convinced by the judgment of Secretary of Defense Harold Brown, as well as from information I have received from scientists at Harvard and M.I.T., that SALT II is adequately verifiable and there is no strategic danger from possible violations.

I have studied the testimony of Secretary of State Vance and Secretary of Defense Brown. They have given this Committee complete details of the restraints in quantity and quality of permitted Soviet buildup. They have also explained our modernization program, fully permitted under the Treaty, which is required to maintain our position of equivalence and the protection against the threat to our ICBMs. There is no need for me to repeat these points. I wish, however, to strongly endorse their statements and judgments.

I would like to comment that the Soviet government has undertaken during the last fifteen years to catch up with the United States in nuclear capability and is succeeding. We can no longer expect to stay way ahead of them. There is, however, a stability that comes from neither side feeling inferior. It gives greater opportunity for reaching agreements in other fields. There is in the Soviet Union a spectrum of opinion in the ruling group, from hardliners who are pressing for military strength to support their ideological objectives, to those who have a more reasonable attitude and who are concerned with the development of the Soviet Union for the benefit of the Soviet people. Our acceptance of equivalence as conceived by the SALT II Treaty will, I believe, tend to strengthen the more reasonable group, and it may well affect the succession to Brezhnev when he steps down. A rejection of the Treaty, I fear, might lead to a hardline succession. This could have a far-reaching effect on our relations for many years. It could mean a difference between greater progress both in the control of nuclear and conventional arms, as well as in political matters, as against a return to more of the cold war attitudes. It could affect the balance in the areas in which we find it possible to cooperate, or where we are faced with competition, if not confrontation.

I was in Moscow in May 1975, heading an American delegation appointed by President Ford, to participate in the Soviet celebration of the 30th Anniversary of VE Day. The emphasis of the celebration was not on the victory in war but on the maintenance of thirty years of peace. President Brezhnev emphasized this in his hour-long speech. He called for the same cooperation for peace as we had during the war. Yet when he came to the role of the Communist Party, he made the following statement: ". . . our high-principled support . . . of liberation movements throughout the world . . . adds to our influence and prestige." He has been quite open in statements of this kind, and we should recognize that the Soviet government will help communist subversion—called "liberation movements"—wherever the opportunity arises. Our nuclear weapons will not stop communism. The strength of our ideals and the way we adhere to them, as well as our assistance to others who are trying to protect their freedom, will, I believe, prevail over communism. We should also strengthen our conventional forces where needed.

The decision on SALT II can have such far-reaching effects on our security that I earnestly hope it can have bipartisan cooperation such as existed in the immediate post-WWII period, when Republican Senator Vandenberg of Michigan, Chairman of the Foreign Relations Committee, worked so closely with President Truman in the historic achievements of that time. I like to recall Senator Vandenberg saying that it was not "bipartisanship" but he called it "nonpartisanship." The avoidance of nuclear holocaust is so serious that it requires acceptance of Senator Vandenberg's wise precepts. After all, this Treaty has been negotiated under both Republican and Democratic administrations.

In 1948 there was a strong difference of opinion, both from the left and the right in this country, about whether we should join in a military alliance with Western Europe. Such a prominent Republican leader as Robert Taft opposed this alliance. Senator Vandenberg's nonpartisan leadership made possible agreement on the founding of NATO.

Today the governments of our European allies are strongly supporting this SALT II Treaty because they know it will add to their security. They also hope it will lead to agreement on European nuclear balance and the reduction of conventional forces under MBFR (Mutual and Balanced Force Reductions). There are many other fields in which we have a vital interest that would be favorably affected by the ratification of SALT II. In the nonproliferation treaty, the United States and the Soviet Union are committed to reduce nuclear weapons. SALT II would contribute to our working together to reduce and prevent nuclear proliferation. Without the Treaty, it will be far more difficult to prevent an increasing number of countries attaining nuclear capability, with all its attendant dangers.

Ratification of the SALT II Treaty would give promise to the success in other important areas, such as the anti-satellite negotiations, chemical weapons, the Law of the Sea, and the development of fusion power.

The attainment of our objectives of controlling nuclear weapons is a long process, as I pointed out, beginning under President Truman in 1945. Real progress is now being made, but it can only be achieved on a step-by-step basis—some modest and some more extensive.

I am sure this Committee is aware of the extent to which the views of the Senate have been sought and the attempt of the negotiators to attain as many of their suggestions as possible. Recent negotiations have, however, had to consider commitments taken in compromises which, though favorable to us, are not now renegotiable. I believe a balance has been finally agreed to that represents as close to a consensus as is achievable today.

Based on my years of negotiations with the Soviets, and my long talks with President Brezhnev, I am convinced that it would be unproductive to seek to reopen this Treaty following these lengthy negotiations by three Presidents.

In closing, I would like to state to those who feel that SALT II does not go far enough, that the way to make progress is to approve SALT II and move to achieve their objectives in SALT III. The Treaty, under Section XIV, commits us to prompt negotiations for further limitations and reductions in strategic arms. On the other hand, there are some who have been persuaded to oppose the Treaty because they believe the Soviet Union gains superiority under this Treaty. Nothing could be farther from the truth. As has been testified, the Treaty places important restrictions on Soviet developments in the numbers of warheads and in the numbers of MIRVs to be allowed, not to mention the ten percent reduction in total permitted launchers. There is no doubt that without the Treaty the Soviets would have a substantially greater nuclear capability in the coming years. It would be far more costly, as Secretary Brown has testified, to keep up with the Soviets. He has also explained how our modernization program maintains essential equivalence in addition to countering the growing vulnerability of our ICBMs.

I have explained that over the years we have always lost by delays. Agreements have become more difficult as both sides have attained a higher level of technological development.

All in all, I see much to gain and nothing to lose in ratifying this Treaty in the interest of our national security and in our awesome objectives of controlling nuclear weapons. I have closely watched developments since Truman's days. We have always lost in failure to take advantage of offered opportunities and found a more difficult situation later. Therefore I unhesitatingly strongly recommend approval by this Committee of the SALT II Treaty.

TESTIMONY BY AMBASSADOR RALPH EARLE II BEFORE THE COMMITTEE ON FOREIGN RELATIONS, UNITED STATES SENATE, JULY 19, 1979

Mr. Chairman, members of the Committee, it is an honor to appear before you again today—this time to address Allied attitudes toward SALT.

With me are Mr. George Vest, Assistant Secretary of State for European Affairs, and Mr. David McGiffert, Assistant Secretary of Defense for International Security Affairs.

Throughout the SALT TWO negotiations, which have spanned three Administrations and almost seven years, we have consulted closely, fully and directy with our Allies on the entire spectrum of SALT issues. In addressing the realities of Soviet military capabilities, the United States and its Allies share vital security interests. We understand this, our Allies understand this, and as we continue to pursue our common security interests, we make this clear to the Soviets. Thus, it was only to be expected that our mutual Allied interests would be reflected in close consultations throughout the SALT negotiations.

I have been privileged to have been intimately involved in this process. In December 1972 I attended the first SALT TWO consultations with our NATO Allies at the North Atlantic Council in Brussels. I was then serving as the Representative to NATO of the Office of the Secretary of Defense. Last month—in July 1979—as Chairman of the United States SALT Delegation, I participated in the last consultation on SALT TWO within NATO, when our NATO Allies formally endorsed the SALT Treaty.

Our discussions on SALT TWO have included some forty meetings in the North Atlantic Council, of which half occurred within the past two and one-half years. We have made the North Atlantic Council the focal point for these consultations because it provides a cohesive, high-level forum in which all of our NATO Allies participate.

For most of our consultations, the Chairman of the U.S. SALT Delegation, accompanied by some Delegation members and staff, visited the Council once every several weeks—or more frequently, if circumstances warranted—in order to discuss SALT developments and issues. Following the opening statement by the Chairman. Council members discussed current SALT questions in detail, including their relation to overall Alliance interests and objectives. Often these sessions were followed by "experts" meetings at which specialists from NATO capitals participated in even more detailed discussions of intricate SALT issues with United States representatives.

These meetings with the North Atlantic Council were only part of our extensive consultations with NATO. There were also:

Meetings with the Alliance at higher levels throughout the SALT II process. For example, our Secretaries of State and Defense discussed SALT with their counterparts at regularly scheduled ministerial meetings.

Specially scheduled sessions of the North Atlantic Council to discuss, for example, SALT meetings held with the Soviet Foreign Minister or at the Summit level;

Interim reports to the Council, between formal consultations, by our Ambassador to NATO;

Visits by experts from Washington to the Council to discuss SALT-related matters of particular Allied interest; and

Supplementary contacts through normal diplomatic channels, both with NATO countries and other Allies.

Throughout SALT TWO we have taken Allied interests fully into account. Let me cite a few examples.

At the beginning of SALT TWO, the Soviets sought extreme limitations on U.S. systems forward deployed in support of Alliance commitments, including at one point their complete withdrawal. The Soviets did not propose corresponding limits on Soviet systems which could strike Western Europe. We rejected these demands, with the strong support of our Allies. There are no limitations on United States systems which are forward deployed in SALT TWO.

Similarly, the Soviets sought limitations on the nuclear systems of our Allies. We rejected these demands as well, again with strong Allied support. There are no constraints on Allied systems in SALT TWO.

In addition, the Soviets proposed a strict non-transfer provision early in SALT TWO. The United States rejected this and subsequent Soviet proposals, with strong Allied support. There is no non-transfer provision in SALT TWO.

From the beginning of SALT TWO, the United States sought Soviet agreement to equal aggregate limits on central systems—ICBM launchers, SLBM launchers and heavy bombers—without limits on U.S. theater forces or Allied nuclear systems. Our Allies strongly supported this objective, and welcomed the agreement at Vladivostok to equal aggregate limits.

More recently, we have consulted closely on certain aspects of SALT of particular interest to our European partners.

Prior to negotiating the final formulation on the SALT non-circumvention provision, we discussed possible implications fully and at length with the Allies. We also consulted closely with them prior to making to the Council the formal statement Secretary Vance submitted to this committee on July 10 which makes clear our interpretation of the provision.

Following Allied consultations, we proposed and secured Soviet agreement to a Protocol expiration date of December 31, 1981, which is well before the anticipated date when deployment of ground- and sea-launched cruise missiles would begin. We also made clear to the Soviets that the Protocol limits do not establish a precedent for future negotiation.

The SALT TWO Treaty addresses intercontinental strategic systems. However, we and our Allies are also consulting closely about the expansion and modernization of Soviet theater nuclear forces facing Western Europe. Alliance consultations on this issue have addressed the impact of this trend upon NATO's deterrence strategy. In particular, the High Level Group (HLG) of NATO's Nuclear Planning Group (NPG) has been created in order to develop recommendations as the basis of future Alliance decisions. The High Level Group will prepare recommendations on NATO TNF modernization for consideration by the Alliance defense and foreign ministers.

In addition, we are consulting within NATO on the positive role which arms control efforts might play in contributing to a more stable military relationship between East and West. Alliance efforts in the field of arms control complement our collective endeavors on defense policy. In recent months the Alliance has carefully considered the implications of seeking constraints on theater nuclear systems through arms control negotiations. In April 1979, a Special Group (SG) was formed under the aegis of the North Atlantic Council to develop an arms control approach to theater nuclear forces in parallel with the work being done by the High Level Group.

In order to maintain all U.S. and Allied options with respect to possible future limits on TNF, the United States consulted closely with its Allies on a formal statement which we made to the North Atlantic Council on June 29.

As Secretary Vance indicated last week, we stated that "any future limitations on U.S. systems principally designed for theater missions should be accompanied by appropriate limits on Soviet theater systems." This statement preserves flexibility to pursue future limitations on theater systems or not, depending on what we and our Allies determine to be in NATO's best security interests. This approach will give the Alliance time to consider in depth its theater nuclear force requirements and to weigh the advantages and disadvantages of involving theater systems in arms control before any discussion takes place with the Soviets.

Mr. Chairman, throughout SALT TWO our interests have been served through consultations—not just briefings, but thorough discussions on all sides—with our Allies. I have been struck by the depth of detail with which our Allies have pursued these issues with us, and with the expertise which has so clearly emerged from our consultations. Our discussions have ranged from the broadest issues of defense policy to the most detailed consideration of such issues as MIRV launcher types rules. Our discussions have been thorough, candid, and mutually beneficial.

All of our NATO Allies, without exception, support SALT TWO. The same is true of the NATO Defense Ministers, the Secretary General of NATO, and the North Atlantic Council. All have publicly endorsed SALT TWO.

I believe, however, that no one can speak to the views of our Allies better than they themselves. For this reason, I am submitting with my statement a representative sample of Allied statements in support of SALT TWO, and I ask that they be included in the record. I would like to read one of them for you now. It is by Chancellor Helmut Schmidt:

"SALT II is, of course, not only a domestic matter for the Americans. For that reason the United States Government informed its allies on the progress of the talks and also consulted with them. This treaty is a piece of world history. It is also a piece of world security and a piece of my own country's security. For the present it is a climax of co-operative arms limitation. The Federal Republic of Germany supports the SALT II Treaty and hopes that it will soon be ratified by Washington and Moscow."

Mr. Chairman, I believe that this Allied support reflects, to some degree, the continuing and close consultation that the United States has had with its Allies throughout the period of the SALT TWO negotiations. More importantly, however, I believe it reflects their own assessment of the contribution the Treaty makes to their individual and collective defense, and their judgment that it safeguards U.S. and Allied strategic and security interests.

Attachments: Allied Statements.

STATEMENT BY SECRETARY-GENERAL LUNS ON BEHALF OF THE NORTH ATLANTIC COUNCIL, JUNE 29, 1979

After detailed review, against the background of regular exchanges of views which had taken place within the Alliance throughout the negotiations, the Allies have concluded that the new agreement is in harmony with the determination of the Alliance to pursue meaningful arms control measures in the search for a more stable relationship between the East and West. The Allies therefore hope that the agreement will soon enter into force.

"This treaty responds to the hope of the Allies for a reduction in nuclear arsenals and thus offers a broader prospect for détente. The Allies note that the Treaty fully maintains the U.S. strategic deterrent, an essential element for the security of Europe and North America. They have been given explicit assurances by the United States, which they welcome, that nuclear and conventional cooperation among the Allies can and will continue."

UNITED KINGDOM STATEMENT ON SALT II ISSUED BY THE FOREIGN OFFICE ON JUNE 27, 1979

"The British Government welcomes the strategic arms limitation agreement between the U.S. and the Soviet Union which was signed in Vienna on 18 June. Successive British Governments have strongly supported the efforts of the U.S. Administration to negotiate balanced and verifiable agreements limiting strategic arms. Throughout the negotiations leading to the new agreement the U.S. has kept its allies informed of progress and has consulted them, particularly on aspects of special concern to them. The Governments are satisfied that the agreement will not interfere with continued nuclear and conventional cooperation between the U.S. and its allies and that the essential security interests of the alliance are safeguarded. They hope that the treaty will be ratified."

The Foreign Office spokesman also said that day:

"SALT II must be seen as a carefully balanced compromise between the different interests and attitudes of the two sides. It breaks new ground in placing equal ceilings on the strategic arms of both sides which will involve the dismantling of some Soviet delivery systems and in applying qualitative limits. It is thus an important step in the continuing process of arms control which the Government sees as complimentary to the alliance's defence capability."

CHANCELLOR HELMUT SCHMIDT COMMENCEMENT ADDRESS, HARVARD UNIVERSITY JUNE 7, 1979

SALT II is, of course, not only a domestic matter for the Americans. For that reason the United States Government informed its allies on the progress of the talks and also consulted with them. This treaty is a piece of world history. It is also a piece of world security and a piece of my own country's security. For the present it is a climax of co-operative arms limitation. The Federal Republic of Germany supports the SALT II Treaty and hopes that it will soon be ratified by Washington and Moscow.

NATO DEFENSE PLANNING COMMITTEE COMMUNIQUE, MAY 16

Following the conclusion of the DPC meeting with Defense Secretary Harold Brown, May 16, the committee issued a communique which contained the following section devoted to the SALT II agreement:

"Ministers welcomed the Agreement in Principle reached between the United States and the Soviet Union in the Strategic Arms Limitation Talks. They agreed that equitable limitation of the nuclear weapons capabilities of the Soviet Union and the United States will improve the security of NATO. Ministers expressed their satisfaction with the past record of close and full consultations within the Alliance of issues arising from these talks, confirmed the importance of continuing close consultation, and looked forward to the opportunity to study in depth the official SALT II text once the Treaty is signed."

THATCHER-SCHMIDT PRESS CONFERENCE, LONDON, MAY 11

SCHMIDT (FRG): "We are in favor of a quick, swift ratification process, both in Moscow and in Washington, DC. We imagine that the world might change, might undergo a change not for the better, if new difficulties for the coming into force of SALT II would arise. The process has already lasted long—a little bit too long to my feeling—and so it is about time that this agreement should have been concluded and it is about time that it is getting into force. Otherwise, I would feel that there are many great disadvantages for the West and the East that would arise. . . . We would try to be helpful as regards President Carter's efforts to get ratification in the American Senate for SALT II. If we felt to have been hurt in our defense posture by that agreement, we would certainly not do so. As regards SALT III, it is a little bit premature to speculate about it, but certainly, the United States Administration will consult her Allies, whether it is United Kingdom, or Germany, or France or others, so we will have to wait for that consultation first before we speculate about it."

THATCHER (UK): "I thought Chancellor Schmidt's view was very much the view that we have taken, that the Treaty has taken a long time to come to a conclusion and we trust it will be ratified. . . . I think SALT III will be one which concerns Europe even more and perhaps we can concentrate rather more on that."

OFFICIAL FRENCH GOVERNMENT STATEMENT ON SALT II ISSUED JUNE 26 BY THE COUNCIL OF MINISTERS AFTER A MEETING CHAIRED BY PRESIDENT GISCARD

"Based on a presentation given by the Defense Minister (in the absence of the Foreign Minister), the government proceeded with a thorough examination of the text of the US-Soviet agreement on the limitation of strategic arms (SALT II).

"The government concluded after that examination that the agreement signed in Vienna constitutes, in its principal aspects, an event to be saluted for its range and positive character.

"From the political point of view, the agreement represents the conclusion of several years of difficult negotiations and marks an important step on the road to international detente.

"From the point of view of disarmament, the agreement signals only relative progress in that it barely provides for significant reductions in the size of the Soviet and American arsenals. On the other hand, the genuine limitations that the agreement imposes on quantitative and qualitative growth act to brake the accumulation of nuclear arms by the world's two principal military powers.

"From the point of view of security, the agreement can be considered balanced overall, taking into account the difference structures of the military apparatus to which it applies.

"The government notes in conclusion that the Soviet-American agreement does not jeopardize the vital security interests of third party states. In particular, the independence of the French nuclear deterrent force is not affected in any way.

"Consequently, the government considers that the Vienna agreement meets conditions which permit the government to express its approval.

"The government hopes that the agreement will come into effect soon, and thus open the way to a new series of negotiations which will not only prevent increases in the American and Soviet nuclear arsenals, but also reduce their size and power in a balanced and duly verifiable fashion."

THE NORWEGIAN FOREIGN MINISTRY ISSUED THE FOLLOWING STATEMENT ON JUNE 18, 1979

"The government wishes to express its great satisfaction with the signing of SALT II by the United States and the Soviet Union. The treaty is a milestone in the complicated efforts toward achieving control of the strategic arms race through limitations on long range means of delivery of nuclear weapons. The SALT negotiations are a basic element in the process of detente between the super powers and between East and West in general. It is our hope that the SALT treaty is ratified and that it will have positive effects on the efforts to promote Arms Control also in other forums, and that the SALT process can be continued with a view toward achieving, in the next round, real reductions in the strategic armaments."

BRITISH GOVERNMENT STATEMENT OF SALT II, MAY 10

"The Government is glad that progress on SALT II has gone far enough to permit the long-awaited summit meeting to take place and we welcome the settlement of major outstanding issues. The Government will study the final text of the Agreement when it is available and its implications. There will of course be an opportunity to discuss all aspects of the new Agreement with the Americans especially during the forthcoming visit of Secretary Vance to London."

BRITISH FOREIGN SECRETARY LORD CARRINGTON'S PRESS CONFERENCE MAY 14

". . . We are glad that the negotiations have progressed this far, and I think that has undoubtedly been the message which the US Government has got from Britain, and we welcome the settlement of outstanding issues. We very much hope that this Treaty will be ratified before long. We have all supported efforts to limit strategic arms . . . Of course I shall have an opportunity to speak to Mr. Vance about SALT and there are I think specific British interests in SALT, which I will seek to ask him about and be satisfied that they are, in our judgment, fully safeguarded. Of course, SALT III is of even more importance to Europe and it's early days about SALT III (sic) but we shall have to look very carefully at the terms of reference, which we don't know at the moment, and we shall have to consider very carefully the way in which we can and should participate."

FOREIGN MINISTER CHRISTOPHERSON'S MAY 9 PRESS STATEMENT (DENMARK)

"It must be greeted with the greatest satisfaction that the Foreign Ministers of the US and the USSR after so many years of negotiations have succeeded in reaching agreement on the so-called SALT II Agreement on a limitation of the strategic arms race. The Agreement not only opens up new perspectives for the disarmament talks in general, but is also an expression that the two superpowers recognize their common interests in vital areas and their responsibility for world peace. The Agreement is thus also an important contribution to further general relaxation between the East and the West. The Government hopes, therefore, that the Agreement will soon be followed up by the necessary approval by the two countries, and that it will be followed by new talks—the so-called SALT III—the aim of which is additional and considerable reductions of the nuclear arms."

PRIME MINISTER ULLSTEN'S MAY 10 STATEMENT (SWEDEN)

"That the negotiations between the United States and the Soviet Union on a SALT II Agreement now, on all essential parts, have been concluded must be greeted with satisfaction . . . The negotiations on strategic mass destruction weapons play a central role in disarmament efforts. The Agreement will not result in major limitations of the nuclear arms arsenals in the US and the Soviet Union. However, it is an important step towards more far-reaching disarmament measures in the nuclear arms field. It is my hope that

the process, which is required for the Agreement to take force, soon will be concluded. Therewith a good foundation would be created for the next round of negotiations, which we hope will lead to substantial reductions of both strategic arms and the so-called tactical nuclear arms."

SECRETARY GENERAL JOSEPH LUNS' MAY 11 STATEMENT (NATO)

"I welcome the announcement recently made by the government of the US and the USSR that they have reached agreement in principle on the terms of a second treaty to limit strategic armaments. This Agreement is obviously an important development in the process of achieving such a treaty and, as such, may constitute a significant milestone in the evolution of the East-West relations since World War II."

FOREIGN MINISTER GENSCHER'S MAY 10 STATEMENT (FRG)

"The Federal Government welcomes the fact that it was possible to bring the SALT II negotiations to an essentially positive conclusion. The Federal Government is of the opinion that SALT II constitutes a very important contribution toward the stabilization of world peace.

During the negotiations, the Government of the United States of America regularly informed the Federal Government and the governments of the other Allies about the status of the talks and gave regard in the negotiations to the proposals and ideas that were voiced in the course of these consultations by the Allies, including the Federal Republic of Germany.

The Federal Government has always considered the American-Soviet negotiations on a limitations of strategic armaments to be a central factor of stabilization in the field of security policy. The Federal Government has repeatedly expressed the hope that these negotiations be concluded at an early date.

The Federal Government welcomes the fact that the successful conclusion of the negotiations will make possible a signing of the Agreement in the foreseeable future."

FOREIGN MINISTER FORLANI'S MAY 10 STATEMENT (ITALY)

"The new pact . . . presents a unique occasion for the international community to bring about a decisive turning point that will break the spiral of rearmament and establish peace and security in the world for everyone on the basis of balanced military force and armaments at gradually decreasing levels."

CHANCELLOR HELMUT SCHMIDT, DINNER FOR THE DELEGATES OF THE 10TH GERMAN-AMERICAN CONFERENCE, HAMBURG, GERMANY, MARCH 17, 1979

"SALT II, as a whole, to my view, to the view of my government, or any other Western European government, is of enoromous importance for the continuity of West-East relations and for peace . . . just think of a situation where this agreement collapses. Think of the consequences not only in Europe but also in other theaters in order to understand the global importance of that undertaking, whatever you may think about this or that or the third detail of it."

KLAAS DE VRIES, MEMBER OF NETHERLANDS PARLIAMENT, NORTH ATLANTIC ASSEMBLY PLENARY DEBATE ON SALT AND ARMS CONTROL, NOVEMBER 30, 1978

Rejection of such a treaty would entail the consequences of a most serious nature and would raise the spectre of a totally unrestrained and destabilizing arms race.

PRIME MINISTER CALLAGHAN AFTER GUADELOUPE SUMMIT, JANUARY 6, 1979

I would like to urge—speaking as someone who is on the other side of the Atlantic—I would like to urge the speedy ratification, the conclusion of the agreement and speedy ratification on both sides, that is, on the United States side and on the Soviet Union.

I think it would be a very sad day if this agreement were not ratified, and the administration will have our support in their efforts when they place it before the American people. And we look forward to the development of a SALT III negotiation, which we believe will be of benefit to us.

[U.S. Senate, 96th Congress, 1st session, Committee on Foreign Relations]

STATEMENT OF EUGENE V. ROSTOW, CHAIRMAN OF THE EXECUTIVE COMMITTEE, COMMITTEE ON THE PRESENT DANGER

(Prepared for delivery, afternoon session, July 19, 1979)

I appreciate your invitation to appear here today. I am testifying as Chairman of the Executive Committee of the Committee on the Present Danger. The Committee began to function on November 11, 1976, on the basis of two statements which I have submitted for the record, "Common Sense and the Common Danger" and "How the Committee on the Present Danger Will Operate—What It Will Do and What It Will Not Do." Since then, the Executive Committee has issued nine statements, including a position paper, "Where We Stand on SALT II," published on July 6, 1977, and approved by the Board of Directors at its 1977 Annual Meeting. The analysis of that paper was brought up to date in a series of nine follow-up statements prepared by Paul H. Nitze, our Chairman of Policy Studies, and released by the Executive Committee. The last of the series, Mr. Nitze's examination of the Treaty itself, is before you, along with our 1977 Statement, the Executive Committee's monograph, "Is America Becoming Number 2? Current Trends in the Military Balance," issued in 1978, and later approved by the Board of Directors, and a number of speeches, articles, and statements on the subject by the Executive Committee and some of its members.

The Committee on the Present Danger has been most reluctant to differ with the President on his SALT II Treaty. We strongly favor equitable and verifiable arms limitation agreements, and true arms reductions on both sides to the lowest possible level. And many of our members have had governmental experience. We have been in that famous kitchen, and our natural sympathies are with the cook. We much prefer to support than to oppose the foreign policy of the government of the United States. Since early in 1977 and, after August 1977, at the President's request, we have canvassed a wide range of foreign policy and defense questions with responsible officials of the Administration. While we failed to persuade them, and they have not persuaded us, the climate of opinion in the country on foreign policy problems has changed since 1976, and is changing rapidly. Many of the trends to which we called attention during this period are now accepted as facts, and the need for us to rebuild our defenses and our alliances is now generally conceded, in principle at least.

In view of the gravity of the issues raised by the Treaty now before you, and all that has happened since the SALT I package was approved in 1972, we recommend (1) that the Senate advise the President and the nation of the need to seek a more positive, forward looking and effective foreign and defense policy, and state the goals and principles on which that policy should be based; and (2) that the Senate withhold its consent to the ratification of the Treaty the President has submitted unless and until it is modified to meet its demonstrated deficiencies, and the President and the Congress are firmly committed to a specific program that will achieve and maintain essential equivalence and adequate deterrence.

The Committee on the Present Danger is the first to recognize that withholding the Senate's consent for the SALT II Treaty now before you is not in itself a foreign and defense policy. We have concluded, however, that the action I have just outlined is a necessary condition for developing a sound and prudent policy. And it is the only available way to convince the President that the SALT II Treaty he signed in Vienna fails both as a means for protecting our national security, and as an arms limitation measure.

It is our conviction that what the country needs above all else is to turn a sharp corner in our foreign and defense policy. To recall the language of President Carter's speech of July 15th, we believe the nation should start on a new course, based on a clear recognition of the truth. Such a course, in our view, should include these elements: (1) to shake off our post-Vietnam depression about foreign affairs and the yearning for isolation which is implicit in it; (2) to reach a bipartisan consensus on what our national interests in this turbulent world really are; (3) to rebuild conventional and nuclear force deterrence so that we can protect those interests by political means or by the use of conventional forces if we have to; (4) to cooperate closely and continuously with our allies and other nations whose interests in a peaceful and stable world political order and economic system are parallel to our own; and (5) on that basis to continue negotiating with the Soviet Union about the limitation of nuclear arms, including both intercontinental and intermediate range nuclear weapons like those threatening Europe and other areas of great importance to us.

There is still time for that great task to be accomplished in peace. As a group, the NATO allies, Japan, China and other like-minded nations have more than enough power and potential power to contain the Soviet drive for domination. But that power is dispersed and inchoate. It is not being mobilized into forms which can become political power—naval squadrons and armored divisions; planes, reserves and research formations. The potential power of the nations which favor a peaceful world order cannot be brought to bear on world politics unless the energy, optimism and intelligence of the American people are liberated and harnessed once again in considered programs designed to restore the peace and prosperity of the nation. In the bipolar world of nuclear weapons and nuclear blackmail, no coalition to guard the peace can act without the protection of the American nuclear umbrella and confidence that our nation is willing and able to meet its commitments.

In the early thirties, as Germany and Japan built up their armed forces, the British government clung to its faith in arms limitation agreements and disarmament conferences as an alternative to the politics of power. Our own government was even more foolish; we passed a Neutrality Act, and adopted the posture of the ostrich. At that time, prompt British and French rearmament, Anglo-French political unity and Anglo-French action if necessary to stop the German occupation of the Rhineland and of Czechoslovakia could have prevented World War II. But it did not happen that way.

The American people have learned a great deal from that terrible experience. We have learned that nineteenth century policies of isolation and neutrality can no longer protect our security. But some of us are hypnotized by SALT II and the SALT negotiating process as MacDonald, Baldwin, and Chamberlain were hypnotized by the myth of disarmament forty-five years ago. They view SALT II and what they call the SALT process as a kind of magic, a substitute for having a foreign policy, and a justification for not decisively restoring our deterrent military strength and the solidarity of our alliances. Only such action on our part, coordinated with like action by our allies and other na-

tions whose interests parallel our own could reverse what could well become a slide toward war. We are not now following that clear and simple course. Instead, we debate the intricacies of the nuclear weapons problem, and wonder.

The Russians believe that what they call the "correlation of forces" determines world politics. SALT II is a case in point. It would reflect and ratify the changing balance of world power and the trends which lie behind it. That is exactly what one would expect. The Soviets bargain hard. They give nothing for nothing. If America wants to accept a permanent position of military and political inferiority to the Soviet Union, we should ratify SALT II. This is not, of course, what our people want. But we have allowed ourselves to fall behind, and we are becoming Number Two. We have been marking time to put it politely—for seven years now, while the Soviet Union has been forging methodically ahead. Unless we move quickly and decisively, we should be even worse off in 1985 than we are today.

I

President Kennedy once perfectly defined the problem we face in deciding whether to ratify SALT II. "If you are cheated once," President Kennedy said, "it is their fault. But if you are cheated a second time, it is your own." President Carter urges us to approve SALT II on the same grounds that were advanced in defense of the SALT I package in 1972: the Treaty will limit the Soviet arms buildup and even reduce the Soviet arsenal or at least keep it smaller than it would have been without the agreement; establish a stable military parity between the Soviet Union and the United States; preserve "detente" and prevent a return to "the cold war"; save us money; and, above all, further the process of negotiation with the Soviet Union, which, we are told, is the only alternative to open hostility, and perhaps war.

It was not unreasonable to accept these arguments in 1972, at least if one kept his fingers crossed. But it is unreasonable to accept them now. They have become the litany of an empty ritual. Both the political and the military expectations which determined our decision in 1972 have turned out to be false. And there is every reason to suppose that those expectations would be even more completely at variance with experience if we believed them now.

We should examine the arguments for SALT II with the skepticism of the small boy in the fairy story—the boy who noticed that the Emperor was naked, and then said so. There has been no "detente," save as an exercise in deception and in self-deception. The "cold war" has not been ended, or even suspended. Indeed, it has been more acute, and on a larger and more menacing scale since 1972 than ever before.

No American has to be reminded that the Soviet Union betrayed the agreements of January and March 1973, which promised peace for South Vietnam and all of Indo-China. At the time SALT I was ratified, it was legitimate to hope that those agreements would be made and carried out.

Equally, it was legitimate then to hope that we and the Soviet Union would agree on a reasonable peace for the Middle East. In May 1972, the Soviet Union had assured President Nixon that it would cooperate in bringing peace to the Middle East. That promise was betrayed in the War of October 1973, and many less dramatic episodes before that war, and since.

Far from cooperating with us in reducing the tensions of world politics, in accordance with their 1972 commitments to President Nixon, the Soviet leaders have been generating tensions throughout the world and exploiting them to expand their empire in a drive for power which, despite occasional setbacks, has been steadily gaining momentum.

The Soviet rush for hegemony is fueled by an extraordinary arms buildup in both conventional and nuclear forces. That buildup was not slowed or stabilized by the 1972 agreements. On the contrary, it has accelerated since 1972, especially in the sphere of nuclear arms. The greatest Soviet military gains in relation to the United States and the greatest increase in the Soviet threat to American security have occurred since we have been engaged in the SALT negotiations. The Soviet nuclear weapons program includes at least thirteen new major strategic weapons systems introduced since 1972, a period in which we have deployed none. While the generally accepted figure for the Soviet arms buildup as a whole is 4% to 5% a year in real terms, our official national estimate is that Soviet nuclear arms have been increasing at a rate of 8% a year in real terms. In view of the fact that our intelligence estimates have for many years consistently underestimated Soviet military activities and capabilities, we can take these figures as conservative. For years now, the Soviet military budget has been far greater than ours. The Soviet Union is now ahead of us by almost every index of military power and is manufacturing and modernizing arms at a pace far greater than that of the United States and its allies. I have brought along for you copies of our 1978 study of the Soviet-American Military Balance, called, "Is America Becoming Number 2?" to which I referred earlier. While it is now being updated in a 1979 version which should be available this fall, the basic picture it presents is sound and would, I believe, be generally accepted. Every other serious analysis of the subject reaches approximately the same conclusion—that we were ahead but have been resting on our oars and now face the necessity of moving quickly to restore our deterrent strength before we fall dangerously behind. The agreed response of the NATO allies to the Soviet threat—an increase of at least 3% a year in real terms—would be totally inadequate to redress the balance, even if it were being met. The 3% target is not now being met by the United States. And we are continuing to fall behind.

We are often told that SALT II would save money, although even Paul Warnke has said that the savings could not be quantified. We shall have to spend more money in order to make up for the neglect of the recent past. General Jones, Chairman of the Joint Chiefs of Staff, has said that the amount we have to spend to safeguard our security would be the same, whether SALT II is ratified or not. Actually, General Jones' conclusion is inadequate. Some of the military programs being considered are more expensive than they would other wise have been because of the provisions of SALT II. For example, the basing model for MX which seems to be favored by the Administration at the moment would cost half again as much as its most practicable alternative, the so-called "shell-game," and be only half as good a system.

The fact is that we are not taking the Soviet Union and its military buildup seriously. This is a fundamental mistake. The Soviet Union is governed by serious people who believe in what they are doing and pursue their goals with determination and conviction. We know the facts by now at the intellectual level. But we do not believe them. Emotionally, therefore, we are paralyzed—unable to act. We read the statistics about Soviet and American stocks and production of tanks, planes and missiles, and then hear President Carter claim proudly that we are superior to the Soviet Union in overall military strength. In effect, we procrastinate and hope that something will turn up, just as we have procrastinated for more than six years in facing up to the energy crisis. If we insist on deceiving ourselves about our own strength and that of the Soviet Union, we could easily stumble into a war we could not win.

I cannot explain or understand our prolonged resistance to reality, which parallels the Western failure to react to the rise of Hitler some forty years ago. I leave the explanation of the phenomenon to the psychologists. All I can say here is that we must somehow bring ourselves to act on the basis of what we know while there is still time to protect our national interests in peace.

George Kennan once said that it is an insult to the dedicated men who direct the Communist movements of the world to suppose that they can be diverted from their course by cajolery, flattery and the other devices through which our government is trying to propitiate the Soviet Union, above all through SALT II. For the ultimate argument of the Administration for ratifying the SALT Treaty is unworthy of our people and their history: It is an argument of fear. If we don't ratify the Treaty, we are told, the Soviet Union will be very angry. It will make even more military hardware than it is manufacturing now and behave even worse on every continent and on the seven seas. Secretary of State Vance told this Committee on July 9 that if SALT is not ratified "the entire fabric of East-West relations would be strained, and . . . the world could easily become a more hazardous place for us all." What could the Secretary have meant by this Delphic sentence? The world is already as hazardous to our interests as the Soviet Union dares to make it. As the Secretary knows from his daily confrontations with trouble, the Soviet Union is proceeding on its imperial course as rapidly and as vigorously as it thinks it can without stirring us to react. Does our Secretary of State believe that Soviet behavior since 1972 toward American interests in Asia, the Middle East, Africa, Southern Europe and the Caribbean have not been "hazardous to us all?"

Soviet spokesmen have openly threatened us with regard to the ratification of SALT II. The Soviet Union will go on "a war footing" if the Treaty is not ratified, they have said. It will never negotiate on nuclear arms again if the Senate changes a comma of the Treaty signed in Vienna. And President Brezhnev himself has commented that a failure to ratify the Treaty would have "grave consequences." In the language of diplomacy, that phrase used to be considered an ultimatum.

There is no objective reason for us to be afraid. In the future as in the past, the Soviet Union will negotiate with us when it is in its interest to do so. Displays of public anger by Soviet leaders are calculated episodes of political theater, and should always be understood as such. And it is most unlikely that the Soviet Union can significantly increase its defense effort above its extraordinarily high present level short of a general mobilization. Soviet programs of military procurement are laid down in their Five-Year Plans, and under their system are extremely difficult to change.

But even if the Soviet Union could increase its military procurement programs, the NATO allies, Japan, China and like-minded countries around the world have the economic capability, as I remarked earlier, to contain the Soviet drive for dominance. The Soviet imperial drive was not limited by the SALT I agreements, and would not be limited by the proposed SALT II Treaty if we did ratify it. Since World War II, the Soviet Union has been held back not by arms limitation agreements or by the Charter of the United Nations, but only by the confrontation of unacceptable risks. There will be no stability in the Soviet-American relation, no diminution of stress, and no restraint in the Soviet push for power, unless the United States and its allies and their associates, backed by adequate deterrent

forces, insist on respect for their rights and interests.

II

The focus of the Hearings planned for today is most important, Mr. Chairman. Administration spokesmen speak and write of SALT as if the only function of our nuclear arms were to deter a nuclear attack on the United States itself. This is most emphatically not the case. The United States cannot be defended as an island fortress. The risks we face go far beyond the possibility of a nuclear attack against the United States itself. The heart of the matter before you in SALT II is not Dr. Strangelove's war, important as it is, but whether Soviet nuclear superiority, which will surely be achieved in the early 1980s unless we act decisively now, will prevent us from using conventional and theatre nuclear forces to protect our interests in Europe, Japan and many other parts of the world. The state of the nuclear balance between the Soviet Union and the United States is the center of a network of relations between the military and the political components of influence. Without a clear and credible second strike nuclear capability, we should be unable to use political influence or conventional force to defend our stake in world politics.

The question haunting every statesman in the world is what the United States will do in the event of a Soviet or a Soviet proxy attack or attempt at takeover in Libya or the Persian Gulf, in Greece or Norway, in Germany, or Malta, or a dozen other neuralgic places. Could we in fact use conventional forces if we had to assure our oil supplies from Libya or the Persian Gulf? President Ford and Secretary of Defense Brown indicated that we might well do so if sufficiently provoked. But a recent study by Colonel Collins of the Library of Congress Research Service is dubious about the possibilities of military action in the Persian Gulf under present circumstances, because of uncertainty about what the Soviet Union might do.

How can we define our vital national interests in the turbulent realms of world politics? The starting point for such a definition, the Committee on the Present Danger has said, is the concept of the balance of power.

The balance of power is the oldest and most durable idea in political theory. It was as familiar to Thucydides as it was to Montesquieu and James Madison. The American Constitution, with its equipoise among the three branches of the government, and between the nation and the states, is a classic example of the balance of power at work. So was the European diplomatic system, the Concert of Europe, which kept the peace pretty well between 1815 and 1914. The hopes men invested in the Covenant of the League of Nations and in the Charter of the United Nations rest in the end on the same idea—that the peaceloving states would defend the general peace by maintaining a balance of power and insisting on the enforcement of agreed rules of public order. That is what the principle of collective security is all about.

Every responsible American understands that preventing Soviet control of the people, area, resources and skills of Western Europe, Japan and a few other critical areas of the world is a vital security interest of the United States. Soviet control of those areas would fatally alter the balance of power and expose us to intolerable pressures backed by overwhelming military force. In such an event, as the Committee on the Present Danger said in 1976, "we could find ourselves isolated in a hostile world. . . . Our national survival would be in peril, and we should face, one after another, bitter choices between war and acquiescence under pressure."

But our interests cannot be confined to the major centers of power. South Korea is vital to the defense of Japan, as the Middle East is to Europe. Other places may become important in the context of Soviet programs for expansion. For example, the United States moved recently to prevent the Soviet takeover of North Yemen as a step toward conquering Saudi Arabia. It is hard to imagine a more peripheral place in a static catalogue of our interests. Yet it has become important, and it is important. And our signal of intention seems to have been effective, for the moment at least. The moral of the episode is that no area of the world can be excluded a priori from the zone of our concern, if we view the world dynamically and as it is.

As the Committee on the Present Danger said in its basic declaration of principles on 11 November 1976:

"Soviet expansionism threatens to destroy the world balance of forces on which the survival of freedom depends. . . . Without a stable balance of forces in the world and policies of collective defense upon it, no other objective of our foreign policy is attainable. For the United States to be free, secure and influential, higher levels of spending are now required for our ready land, sea and air forces, our strategic deterrent and, above all, the continuing modernization of those forces through research and development. . . . From a strong foundation, we can pursue a positive and confident diplomacy, addressed to the full array of our economic, political and social interests in world politics. It is only on this basis that we can expect successfully to negotiate hardheaded and verifiable agreements to control and reduce armaments."

The relationship between the strategic nuclear balance and the capacity of the United States to protect its interests throughout the world by political means or by the use of conventional forces if necessary is the essential problem before you, we believe. This is the inescapable "linkage" between the nuclear weapons question and the rest of foreign policy. An editorial in the Economist of London for June 9, 1979 comments on linkage in these terms:

"It is the old puzzle of linkage, or how to discourage Russia from doing A or B by threatening to do Y or Z yourself. The lesson of experience seems to be that linkage works only when some specific thing you want the Russians to do, or not to do, is made dependent on some specific, usable, western carrot or stick. The Jackson-Vanik carrot is at least getting more Jews out of Russia. The fear of a senate rejection of Salt-2 may have deterred Soviet foreign policy from doing some things hurtful to western interests this year (in Iran? among Arabs angry about Camp David?). It is being suggested in Washington that the prophylactic value (Rhodesia?) of Salt-2 could be prolonged if the senate's ratification of it (assuming it does get ratified) had to be reconfirmed by an annual vote. It is an ingenious idea, perhaps over-ingenious: it would probably not have much real deterrent effect after the first couple of years of Salt-2's likely six-year span.

"But linkage in general—meaning the hope of discouraging some general Soviet course of action in the political or military field by some general threat of western displeasure in other matters—does not seem to work. The oblique approach to great-power politics rarely does. The problem is the will to power of a Soviet Union in the first youth of its imperial enthusiasm, and now equipped with an armory of global weapons. In the end, that has to be contained, so that matters do not slide to major crisis and war, by an equal and matching western will to resist and an equal and matching western armory. Accommodation, compromise and a shrewd avoidance of hopeless causes are in essential part of the process; but they must start from the premise of equal strength.

"Since 1961, the year of Vienna-1, the west has lost its old lead in intercontinental nuclear weapons; the Russians have taken the lead in the shorter-range Europe-based nuclear weapons; and they have have increased their lead in non-nuclear forces in Europe, and come up fast from behind outside Europe. The west has slowly begun to react. The Nato countries' attempt to increase their defence budgets by 3% a year starts this year. The Salt ratification debate in the American senate is almost certain to lead to more American spending on nuclear weapons. As Mr. Carter takes Mr. Brezhnev's measure in Vienna-2, he is unlikely to conclude that the need for counter-armament will diminish in the 1980s."

The record of our experience since 1945 demonstrates that we must have an unambiguously effective second-strike nuclear capability as well as adequate theatre forces in order to be able to back up our diplomacy with the possibility of using conventional force. During the years of our nuclear monopoly, and then of our great nuclear superiority, we could not prevent Soviet attempts at expansion in areas they thought we regarded as secondary or peripheral:—in Iran, Turkey and Greece, for example, and in Yugoslavia, Berlin, Korea and Cuba. But in the end, the shadow of our nuclear power helped to persuade the Soviet Union to back away from efforts of that kind when we had convincingly demonstrated that we were determined to insist on our interests and to use conventional force in their defense if necessary.

During the last decade, this pattern has changed as the Soviet nuclear programs, like the Soviet buildup in conventional arms, have moved forward with astonishing momentum while our own forces have been sharply reduced. The effect of the shift has been dramatic, both for conflicts in peripheral areas and for the security of Europe, Japan, China, South Korea, Israel, Egypt and other places in which we have important interests. We have hesitated to intervene in the long cycle of Soviet adventures in the Middle East, the Far East and Africa. Just a few months ago the Soviet Union publicly warned us not to help Iran in its agony; President Carter ordered our naval forces, which were then headed for Iran, to turn back. It was an ominous episode. The affair in Lebanon has been, and is, no less tragic. In 1958 the United States and Great Britain put forces into Lebanon and Jordan. Their presence ended a powerful threat to both nations. During the recent appalling struggle in Lebanon, we did not seriously consider following the same course. Obviously, if we had, the risks would have been much greater than they were in 1958.

These sad and disturbing trends are symptoms of a much deeper disease. As our nuclear position fades, and our Navy and other conventional forces decline in absolute and relative strength, we can see all too clearly the spector of political impotence not very far down the road. Because of the radical recent shift in the intercontinental strategic balance, we find it increasingly difficult to contemplate using either conventional or nuclear weapons in defense of our interests. And we discover, as so many nations have discovered before us, that diplomacy without power behind it is a weak reed.

III

There can be no question about the fact that unless we act very promptly indeed, the strategic nuclear balance will tip heavily against us. The experts identify the early eighties as the years of greatest danger—the danger, that is, that we shall be exposed to Soviet political demands backed by superior nuclear forces we dare not challenge. Under such circumstances, we shall be forced to back down, as the Soviet Union did in the Cuban Missile Crisis of 1962, and for the same reasons. If that should ever be

allowed to happen, the Soviets would exact a heavy, bitter price.

As Paul H. Nitze has written in one of our Committee's Occasional Papers:

"It is a copybook principle in strategy that, in actual war, advantage tends to go to the side in a better position to raise the stakes by expanding the scope, duration or destructive intensity of the conflict. By the same token, at junctures of high contention short of war, the side better able to cope with the potential consequences of raising the stakes has the advantage. The other side is the one under greater pressure to scramble for a peaceful way out. To have the advantage at the utmost level of violence helps at every lesser level. In the Korean war, the Berlin blockades and the Cuban Missile Crisis, the United States had the ultimate edge because of our superiority at the strategic nuclear level. That edge has slipped away.

"These circumstances form a background for understanding the stakes in SALT II. In broad terms the U.S. aim has been to arrange a standoff so as to neutralize the strategic nuclear threat overhanging superpower rivalry. The Soviet Union's contrasting aim has been and is to take over and nail down the advantage which the U.S. has appeared willing to relinquish."

The SALT II Treaty signed at Vienna does not provide for either equality or stability in the strategic nuclear balance. It cannot be verified by national means. It would prevent us from promptly undertaking programs to restore our second-strike capability in time to prevent the looming dangers of the early 1980s. And it would lock us into a position of strategic inferiority which would be fatal in all aspects of our foreign policy, and particularly in future arms negotiations.

The Treaty provides of course for cosmetic equality in the number of certain strategic launchers on both sides and of MIRVed vehicles. It says nothing about the number of missiles or the number of warheads that can be produced and stored. But people are killed by warheads, not by launchers. Under the Treaty, and during the period before 1985 covered by the Treaty, the Soviet Union will improve its present striking advantage in intercontinental ballistic missiles, which in itself will go far towards neutralizing our submarine force whose weapons are notably less accurate than Soviet and American ICBMs. The Soviet ICBMs carry 4, 6 and 10 warheads on the SS-17, SS-19 and SS-18 missiles. Our Minuteman IIIs carry three much smaller warheads each. And MX, if it is actually built, would not be available in significant numbers until 1989 on the present schedule.

It is often said that the SALT II Treaty leaves both sides "free to improve their strategic forces. The Soviet Union is surely pursuing such a course; but the corresponding American programs remain delayed, insufficiently funded or shrouded in uncertainty.

Both in numbers and in destructive power, the Soviet ICBM arsenal and current ICBM development program constitute a threat which will soon be formidable: a threat of destroying our ICBMs, and much of the rest of our strategic force, with only one-third or one-fifth of the Soviet force, leaving a superior Soviet force to inhibit any American reprisal. Under such circumstances the threat of retaliatory attack on Soviet cities from our submarines, on which we have relied in the past, would lose its credibility and deterrent effect. We could hardly expect the Soviets to believe that we would destroy their cities if the Soviet Union had enough strategic forces in reserve to destroy our cities in turn. That is, the Soviet Union is within striking distance of achieving a credible first-strike capability. The third leg of our strategic force triad, bombers,—and sometime during the 1980s, cruise missiles—also faces a doubtful future, both because of the cancellation of the B-1 program and because of the scale and scope of the Soviet programs of active and passive defenses. The Defense Department has recently conceded the vulnerability of cruise missiles to defensive weapons. Moreover, there are limitations on cruise missiles in SALT II.

It cannot be said too often that both SALT I and SALT II are based on a false premise which permeates the entire subject—the premise that both the United States and the Soviet Union have accepted the McNamara Doctrine. The McNamara Doctrine contends that nuclear war can be prevented if each side leaves its homeland exposed and unprotected, hostage to the nuclear forces of the other, and if neither side threatens the nuclear forces of the other. However plausible that view of the matter was in 1972, it cannot be advanced today. We still live by the McNamara Doctrine. But the Soviet Union does not. We have no air defenses; the Soviet Union bristles with fighter squadrons and antiaircraft batteries. It is generally believed that within a few years the Soviet Union will be able to "break out" of the ABM Treaty quickly and effectively. And the Soviet Union has invested heavily in civil defense, which would in turn further reduce the deterrent effect of our entire strategic force. As the Secretary of Defense has noted in the current Department of Defense Report (p. 80), the Soviet Union has put a massive effort into developing its capacity to destroy our retaliatory forces before they could be launched. Even more troublesome, the Secretary comments, "is the degree of emphasis in Soviet military doctrine on a war-wininng nuclear capability, and the extent to which current Soviet programs are related to the doctrine."

These are some of the fundamental flaws of SALT II—that it does not provide for equality and stability in the nuclear balance, and it would allow the continued development of a Soviet first-strike capability, while it would prevent us from restoring our second-strike capability by the only practicable means available between now and 1985—the deployment of Minuteman III missiles in multiple vertical protected shelters: the so-called "shell game." Such shelters would be considered additional "fixed launchers" under Article IV of the Treaty and are prohibited.

As for stability, how can a situation be described as stable if it can be altered in minutes or hours by the movement of missiles from warehouses to launchers; by the firing of missiles from warehouses or factories; or by the transformation of a mobile intermediate range missile into an intercontinental missile by adding another stage, by reducing its payload, or by moving it to the north?

SALT II is quite as unsatisfactory from the point of view of verification.

Verification is a most peculiar subject. Outside the circle of experts, few people realize the extraordinary fact that both the SALT I and the SALT II negotiations have been conducted until now on the basis of figures supplied by ourselves. The Soviet Union has not in the past put its own production figures on the table. We have provided our intelligence estimates for Soviet activities and our production figures for our own. That is, we have been negotiating with ourselves—a process which informs the Soviet Union fully about the accuracy of our intelligence. Since we have ourselves concluded, as I remarked earlier, that our intelligence estimates of Soviet capabilities have been consistently in error, this bizarre feature of the SALT negotiating process makes the stability of the nuclear relationship the Treaty is supposed to regulate altogether dubious.

But even if our national means of verification were fully reliable, they could not accurately monitor the most important indices of nuclear power—the number of warheads on a missile; the number of missiles and warheads in storage; the throw weight of missiles. The controversy over Soviet encoding of telemetry deals with a highly important aspect of modernization—the testing of new missiles. But even without taking advantage of the modernization provisions of the Treaty, the Soviet Union could transform the balance of power for years to come simply by making more and more old models.

IV

In making the case for SALT II, President Carter has put great emphasis on the public support of the Treaty announced during recent months by some of our European allies at the President's urgent request. What I get from European writings on the subject, and from conversations and correspondence with European friends and colleagues, is that we should take these statements with more than a grain of salt. I fully agree with that judgment. My European interlocutors are not suggesting that those responsible for governmental policy in Europe are hypocrites or cynics; nor do I. I know many of these men and women to be honorable, high-minded and responsible people. But they are realists.

The first reality with which they must live, twenty-four hours a day, is that they are totally dependent upon the United States, and especially on the nearly instinctive reactions of the President of the United States, for their security against the Soviet forces arrayed around Europe in growing strength from the East, the North and the South, and in the oceans. Because of the Soviet lead in nuclear weapons, that dependence is far greater today than it was thirty years ago, despite the prosperity of Europe, the formation of the European Community, and the success of Europe's political and social institutions.

The second reality with which these men and women must live is that they face complex political situations in their own countries and must move cautiously in relation to their public opinion. There are strong Communist parties in France and Italy. In all the Allied countries, including our own, there are pacifists, defeatists, neutralists, illusionists and people who invariably find excuses for anything the Soviet Union does or wants. For years now European leaders have had to hold to a steady course despite the fluctuations and occasional explosions of American politics and avoid the development in their own countries of a state of opinion which would conclude that it was hopeless to oppose the pressures of Soviet policy, and that it would be better to accept the status of Finland—or even of Poland—than the chance of war on unequal terms.

These two themes—Europe's dependence on the United States and the risks of despair and defeatism in European opinion—are interrelated. They both derive from the development of the Soviet Union's nuclear forces following the Soviet rejection of the Marshall Plan and the Baruch Plan in President Truman's time.

When President Truman made his proposals for Soviet-American postwar cooperation, and helped to found NATO when the Soviet Union turned him down, it was generally believed both in the United States and in Europe that we should stand guard for a few years while Europe recovered and became a united or federated political entity. Then, we thought, Europe—stronger, richer and more numerous than the Soviet Union—would be able to protect itself against any possible Soviet threat. And we could bring our troops home and return to normalcy. It would have seemed lunatic in 1949 to

suggest that we should have garrisons of 300,000 troops in Europe in 1979. But we do and we should. On this point all non-Communist Europeans are unanimous. They know that our military presence in Europe, backed by our nuclear second-strike capability, is the only counterweight that could contain the growing Soviet superiority in conventional forces and the extraordinary buildup of Soviet nuclear forces aimed at Europe and the United States.

Exactly the same constellation of events lies behind the risk of defeatism and neutralism in Europe. Soviet conventional forces facing Europe have always been stronger than those of the Allies. Until now they have been clearly balanced by our nuclear forces. Now that balance is challenged not only by strong modern Soviet conventional forces, but by formidable Soviet theater and intercontinental nuclear forces. The mobile MIRVed SS-20 missiles, various intermediate range Soviet nuclear weapons and the Backfire bomber have touched the European mind and generated a wave of fear which is causing great concern in Europe. This fear could easily become hopelessness and passivity, especially if we should allow the Soviets to develop a first-strike nuclear capability which could neutralize our intercontinental nuclear arsenal and create doubt about our capacity and willingness to provide conventional force support and a nuclear umbrella for Europe and our other allies.

The SS-20 is deployed in a mobile mode. One way it can be converted into an intercontinental missile is by adding a booster, which concerns us in the SALT context. What concerns Europe in the first instance is the threat these weapons imply for Europe itself, without the third stage booster. Similarly, the Backfire bomber can reach targets throughout the United States as well as in Europe, China, the Middle East and Japan. You will hear a good deal about Backfire in relation to SALT II during the next few months. But the Europeans are concerned first with the fact that Backfire could destroy European targets with nuclear weapons.

Many call these problems the "grey area"—the grey area between theater forces and strategic forces. This development brings out one of the most fundamental weaknesses of the SALT II Treaty, the fact that it purports to deal only with intercontinental weapons. Dean Rusk once commented that the SALT approach was like building a dam across half a river. It serves no purpose to regulate the intercontinental nuclear balance if Europe, Japan and our other allies and interests are exposed to more and more ominous threats, both conventional and nuclear. The danger to our vital national security interests is the same. In fact, of course, the Treaty is not confined to intercontinental weapons in any meaningful sense. For example, United States ground and sea-launched cruise missiles having ranges beyond 600 km. are counted as "strategic" weapons and limited in SALT, while Soviet SS-20s and Backfires having ranges in the thousands of kilometers are not considered "strategic" and are not covered by SALT. This feature of the agreement has grave implications. Our acceptance of the cruise missile limitations was a retreat from a position of principle on which we had held firm for a long time, namely, that limitations affecting systems for allied and theater use are inappropriate in a bilateral agreement, and particularly that asymmetrical limitations concerning Western alliance defenses are unacceptable.

In 1972, when the SALT I Interim Agreement came up for ratification, the grey area issue didn't make much difference. It was said then that our superiority in MIRVing and in accuracy compensated for the numerical imbalance in its terms.

But the military circumstances of 1972 have gone glimmering, as I remarked before. So far as Europe is concerned, Soviet nuclear development, and SALT II itself, have driven a gap between us and our allies, a gap we must not allow to become an abyss. That gap concerns Alliance defenses against the SS-20 and the Backfire and the across-the-board modernization of Soviet nuclear and conventional weapons. The adequacy of our defenses in these two areas, coupled with the maintenance of our second-strike strategic capability, determine the credibility of our commitment to the defense of Europe and therefore its deterrent influence. Anxiety in this area has, of course, been heightened by our decision on the neutron warhead which could significantly improve our capacity to defend Europe against a Soviet invasion. This is the subject the Allies, led in this regard by the German Chancellor, Helmut Schmidt, have been pressing on President Carter in the context of their discussions about SALT II. It is the necessary condition implied in European public support for SALT II. The urgency of this problem is one of the important factors which led our Committee to recommend that the present text of the SALT II Treaty should not be ratified, and that we should proceed forthwith to rebuild our alliances and our defenses and resume arms control negotiations with the Soviet Union on the basis of an agenda which includes "the grey area".

The European leaders still tend to speak in terms of a vocabulary which was more popular here seven years ago than it is today. The rejection of SALT II by the Senate, many of them have said, would "end détente, and revive the cold war." President Carter sometimes uses the same phrases.

The European leaders know as well as we do that this way of talking about our relations with the Soviet Union is meretricious. But what it means to European mass opinion is brutally simple—that Soviet wars of expansion are going on somewhere else. Responsible Europeans know that the control of Western Europe is the first and primary objective of Soviet strategic thought and of Soviet expansionist policy. And they know too that Soviet programs of expansion in Africa and the Middle East, and Soviet force deployments both in Europe and on the seas, are undertaken in order to outflank Europe and to reduce it without war. Such a step, the Soviet strategic planners believe, would have a profound impact in Japan and China and lead inevitably to the complete isolation of the United States.

We can all understand the response of the European leaders to the President's request for their support of SALT II; we can sympathize with their efforts to press the "Euro-strategic" issues to the forefront at this time and to take advantage of our SALT II ratification controversy as a lever in that effort; and we know that there are lots of people in our country who still talk about "the end of détente" and "reviving the Cold War."

Our reaction to this phenomenon is simple and clear-cut. We do not believe that democracy can survive unless its leaders trust the people and are willing, in public, to discuss the real problems they deal with in the exercise of their offices. That is the purpose of the entire effort we have undertaken through the Committee on the Present Danger—to encourage courteous, disciplined, factual discussion among us about the basic issues of national safety in a turbulent and changing world. The rule we propose applies first and primarily to the political leadership of the United States. Compared to our Allies, we are strong, and we have the inescapable responsibilities of leadership. Obviously, it is attractive for a politician to soothe his public with bland words about improving our relations with the Soviet Union. Every politician like to portray himself as a peacemaker. Few indeed would choose to offer their constituents nothing but "blood, sweat and tears."

This posture, as I remarked, is politically attractive. But, especially for American politicians, it is wrong.

Our thesis applies with particular force, I submit, to the issues raised by SALT II, which touch the raw nerves of our primitive safety. There is simply no place in our consideration of these problems for non-issues like "ending détente" and "reviving the Cold War." There has been no relaxation or improvement in our relations with the Soviet Union save in the travels of ballet companies and the sale of Pepsi-cola.

The President has suggested that a failure to ratify SALT II would have a bad effect on the solidarity of NATO and our other alliances. I disagree. It is my belief that if the Senate follows the course we have recommended in this statement—that is, if it advises a positive, active foreign policy, and withholds its consent to the ratification of the Treaty until its text is modified, and we are committed to a new course in our foreign and defense policy, the effect on our Alliances would be electric and most constructive.

Such action on our part would answer the question which has been put to me with increasing insistence and anxiety by friends all around the world since 1973, the key question on which the answer to every other question depends—where does the United States stand? Raymond Aron states it very well in the Preface to his new book, *In Defense of Decadent Europe:*

"Time and time again, European journalists, politicians, and intellectuals have asked themselves and their colleagues the question 'Is the United States also plagued with the "British disease"? Have the causes that have brought about the decline of the United Kingdom not become visible in America, as well? Faced with an increasingly powerful and militant Soviet Union, do the Americans still have the same resolution they did thirty years ago?' "

If the Senate pursues the course we recommended here, NATO and our other alliances will be strengthened, not weakened, and many forms of allied cooperation which are now nearly impossible should become possible again—monetary cooperation, for example; the implementation of the Harmel Resolution recommending concerted action by interested NATO allies outside the Treaty area; and many other forms of useful cooperation. Our European, American, Middle Eastern and Asian allies would conclude that the United States—their difficult, unpredictable, but indispensable partner since 1917—had entered into another of its periods of creative energy, and they would rejoice. For our allies, nothing has been better than the good periods of American foreign policy—that of the Marshall Plan, the Baruch Plan, the Point IV Program and NATO, for example; and nothing worse than the disastrous periods—Versailles and the isolation of the '20s and '30s; the Suez Affair of 1956; and others too sad, too recent and too numerous to mention.

In view of the position taken by President Carter, a special responsibility falls upon the Senate of the United States as it considers SALT II. In the aftermath of Vietnam, we have been sleepwalking now for several years, unable to believe the facts about Soviet policy and the Soviet military buildup although we know them to be true. We must wake up and act while there is still time to act in peace through diplomacy and deterrence, and not through war. We have faith that the Senate will act wisely, prudently and firmly, in the best interests of the nation. And we are sure that the na-

tion will respond greatly to leadership in the grand manner.

MESSAGES FROM THE HOUSE

At 12:06 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to H.R. 4388, an act making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BEVILL, Mr. BOLAND, Mr. SLACK, Mrs. BOGGS, Mr. CHAPPELL, Mr. JENRETTE, Mr. DIXON, Mr. WHITTEN, Mr. MYERS of Indiana, Mr. BURGENER, Mrs. SMITH of Nebraska, and Mr. CONTE were appointed managers of the conference on the part of the House.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 2729. An act to authorize appropriations for activities of the National Science Foundation for fiscal year 1980, and for other purposes; and

H.R. 4289. An act making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 3:13 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 19. A joint resolution to provide for the designation of a week as "National Lupus Week".

At 4:13 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7. An act to facilitate the implementation of monetary policy and to promote competitive equality among depository institutions.

HOUSE BILL AND JOINT RESOLUTION REFERRED

The following bill and joint resolution were read twice by their titles and referred as indicated:

H.R. 7. An act to facilitate the implementation of monetary policy and to promote competitive equality among depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

H.J. Res. 19. A joint resolution to provide for the designation of a week as "National Lupus Week"; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. Kennedy, from the Committee on the Judiciary, with amendments:

S. 643. A bill to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes (Rept. No. 96-256).

GENEVA CONFERENCE ON REFUGEES

● Mr. KENNEDY. Mr. President, this past weekend the United Nations concluded an extraordinarily important international conference in Geneva called by Secretary General Kurt Waldheim—to focus international attention on the escalating refugee crisis in Southeast Asia.

After 2 days of intensive diplomatic activity, and after a great deal of preparatory work by the U.N. High Commissioner for Refugees, the meeting concluded on Saturday and, by all accounts, has been judged a major success. For the first time, all aspects of the Indochinese refugee problem have been considered, and important new steps have been taken to deal with it. In fact, the meeting served as the catalyst for redoubling the world's efforts to meet the urgent humanitarian needs of refugees throughout Southeast Asia.

Because the Judiciary Committee has favorably acted upon legislation relating to our country's ability to respond to such refugee crises—and because the bill (S. 643) will soon be before the Senate—the committee dispatched to Geneva staff members of both the majority and minority staff to observe the work of this important conference.

From the preliminary report I have received, it is clear that the Geneva meeting has gone a long way toward meeting the immediate relief and resettlement needs of Indochinese refugees, as well as setting the stage for new diplomatic efforts to provide alternatives to forcing tens of thousands of refugees to flee by leaky boats, with great loss of human life.

It appears that many of the 60 nations represented at the Geneva conference have responded to the call of the U.N. High Commissioner for Refugees (UNHCR) for countries to double the number of refugee resettlement opportunities over the coming year. In some cases, such as Canada, they more than doubled their resettlement offers, and countries that had never responded before came forward. Clearly, America's leadership in redoubling our efforts—as announced by President Carter at Tokyo—has had a significant impact upon other countries.

Also, financial contributions in support of the work of the UNHCR in Southeast Asia have also been doubled. Japan alone announced that it would increase its contribution from 25 percent of the UNHCR budget to 50 percent in the coming year.

Action was taken to support the establishment of island reception and processing centers in Southeast Asia, to help relieve the refugee burdens on the nations of first asylum. The Government of the Philippines, in particular, took the lead in offering an island in its territory to build a center for up to 50,000 refugees.

In addition, the countries of first asylum indicated that they would abide by internationally accepted principles granting temporary asylum to refugees, and to refrain from forcing refugee boats back out to sea.

Finally, in a major development, the Government of Vietnam—acting along the lines of proposals made by France and by the United States—announced a moratorium on the massive outflow of boat people to allow time for the international community to implement the orderly departure agreement negotiated in May by the UNHCR. If this agreement is energetically implemented—by our country and other receiving countries—there may yet be a humane alternative of allowing refugees to leave in an orderly manner, rather than fleeing by boat.

Mr. President, I believe there are all important and positive developments in the ongoing international effort to respond to the refugee crisis in Southeast Asia—and for meeting the urgent humanitarian needs of some 400,000 Indochinese refugees. Although much remains to be done, at least the stage is now set for renewed international action, sanctioned by the Nations participating in the conference in Geneva.

To review the results of the Geneva meeting, and to assess what actions our Government plans in support of the Geneva meeting, I have scheduled a Judiciary Committee hearing on Thursday, July 26, in the Judiciary Committee room, 2228 Dirksen Senate Office Building, at 11 a.m.

Mr. President, there are few greater tests of the democratic and humanitarian ideals for which we stand than how we respond to the need of refugees. And there is no more basic human rights issue than the protection of refugees. The meeting in Geneva was an important step in responding to both these questions.

Mr. President, I would like to share with my colleagues the text of the closing statement of the U.N. High Commissioner for Refugees, Mr. Poul Hartling, and the summation offered by Secretary General Kurt Waldheim. I ask unanimous consent that they be printed at this point in the RECORD.

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

HIGH COMMISSIONER'S CLOSING STATEMENT

Mr. Secretary-General, distinguished delegates: It is now apparent that, with this Meeting, the international community has moved into a new phase in its efforts to resolve the problem of the Indochinese refugees. It is a phase in which new hope is provided to all who have grappled with this problem. Above all, it is a phase in which the refugees themselves will know that the international community has not abandoned them.

We have heard a series of most remarkable statements that have emphatically reaffirmed the humanitarian commitment of the international community. This is of great consequence—to the Indochinese refugees, and to the millions of other refugees throughout the world. As the High Commissioner for Refugees, may I express my gratitude. May I also say how deeply thankful I am for the many kind words addressed to my staff and to me personally. You can count on our every effort.

Of course, the greater the commitment, the greater the responsibility to honour it.

In the weeks immediately prior to this Meeting, and in the course of it, we have been informed of a truly dramatic increase in the number of resettlement places available for the refugees. These have risen from 125,000 at the end of May, to 260,000 today. Many Governments have indicated their intention to act with the greatest possible speed to move the refugees to their new homes. This is exactly what we wished. We were moving over 10,000 persons a month from the area. As soon as possible, we shall now try to move 20–30,000 each month. That is some 1,000 persons a day should move to new lives. Such an action will give the reassurance that all concerned need.

I am particularly grateful to those Governments that have announced on-going commitments. Such indispensable commitments enable planning over the longer-term. I shall monitor resettlement needs for as long as the problem lasts. Governments will be kept informed, on a regular basis, of the requirements.

To make sure that we act with the utmost urgency, UNHCR is already preparing a technical plan to ensure co-ordination on all practical aspects relating to the onward movement. The purpose is to generate a rapid and systematic rate of departure and to utilize the new commitments to the maximum effect. To this end, I am calling an immediate working meeting at the technical level, of countries that have made resettlement offers. The opportunities must be used in a way that makes a clear impact on each of the areas where the refugees are presently located.

A major offer has been made in this Meeting for a Holding Centre that will accommodate a minimum of 50,000 persons. This is in addition to two earlier offers. A senior UNHCR team has been designated to follow-up on all aspects of such proposals. They are ready to work, with the Governments concerned, without delay.

A most significant proposal has been made in regard to a major Fund for achieving permanent solutions. This is a need that we had increasingly felt. It could be of great help to our efforts on behalf of refugees in all developing countries throughout the world. We have started examining the technical aspects relating to such a Fund and I shall present proposals to my Executive Committee early in October. I am grateful that, already, some US $25 million have been announced, in principle, for this purpose.

In regard to our financial needs for the Indochinese refugees, I am most heartened by the new announcements of pledges totaling some US $160 million in cash and kind. It should be clearly understood that this amount includes pledges, some of which are subject to parliamentary approval. It also includes certain funds earmarked for 1980. These announcements will considerably ease the financial situation and enable my Office not only to continue the basic programme, but also start meeting costs relating to Processing and Holding Centres. As soon as the precise costing elements are identified, I shall be further touch with Governments for any additional funds that are required.

There have been many interesting comments on the programme of orderly departures from Viet Nam. Such movements should in no way detract from the priority to those in the camps of South East Asia. However, this programme has the possibility of contributing significantly to an easing of the humanitarian problems in the region and must therefore, develop. Much will depend on the care and understanding with which this effort is conducted. We are ready to do our share.

On the grave problem of rescue at sea, many critically important commitments have been made, for which I am indeed grateful. I am in touch with the Secretary-General of the International Maritime Consultative Organization with whom in the past I have issued joint appeals concerning this matter. I propose to arrange a meeting of experts very shortly in order to concert certain practical steps that could be considered by Governments and interested organizations in a position to help.

Distinguished delegates,

In these brief comments I have summarized the status of commitments as these now stand. I have also indicated certain of the practical measures that we shall take in urgent followup of this meeting.

This vast effort will draw on the energies and ideals of thousands of persons—in Governments, within the U.N. system, and in the non-governmental sector. In this connection, I am deeply appreciative of the Governmental offers to place staff at our dipsosal to help in this immense task. I have already spoken of the technical meetings we propose to convene in relation to specific aspects of the problem. Further, a standing co-ordinating mechanism will group together our colleagues in the U.N. system, ICEM, the ICRC and League of Red Cross Societies and others in the non-governmental sector.

Distinguished delegates, our follow-up will be equal to the challenge. Within ten weeks, the thirtieth session of my Executive Committee will be held in Geneva. It will give us an opportunity to review thoroughly the progress made, and to pin-point what further needs to be done. Thereafter I report to the General Assembly in November. Within these four months, much must be achieved.

With these remarks, may I reiterate my gratitude to the Secretary-General, who will now sum-up our proceedings. May I, finally, convey to you and to all others engaged in this great humanitarian endeavor, the thanks of the refugees.

CLOSING REMARKS BY SECRETARY-GENERAL KURT WALDHEIM AT THE MEETING ON REFUGEES AND DISPLACED PERSONS IN SOUTH-EAST ASIA

Distinguished Delegates, Ladies and Gentlemen,

As we conclude our discussion, I wish to sum up and evaluate the results of our proceedings.

This meeting has been an occasion without precedent in the history of the United Nations. Sixty-five countries concerned with the grave crisis existing in South-East Asia have participated with a view to relieving the plight of hundreds of thousands of refugees and displaced persons.

When the idea of a conference was first launched, there were considerable doubts about its chances of achieving its purpose. There was even the fear that this gathering could stray into a sterile and acrimonious debate which would aggravate even further the political atmosphere surrounding the refugee crisis. I think we can say with gratification that this has not been the case. On the contrary, the very fact that the international community was about to focus its attention on the humaniarian issues in South-East Asia has created a momentum of its own. Before the Conference started, several countries increased substantially the number of resettlement places for refugees and their financial commitments. In addition, intensive contacts took place on a bilateral and multilateral basis to find ways and means of alleviating the suffering of the refugees in the area.

The response during our meeting has been significant. A remarkable spirit of co-operation has marked our deliberations. Many countries have put forward concrete and imaginative proposals. Generous offers of contribution in places of resettlement, in funds, and availabilities for holding centers have been made.

In my judgment, these developments have brought major strides in our efforts to cope with the problem. Indeed, such progress has been required because of the magnitude of suffering in Indo-China and because of the traumatic conditions in which the exodus is taking place. The consequences of this massive movement populations involve not only Indo-China alone, but much of Asia and indeed many countries around the world.

Our purpose at this meeting has been to try to reverse the course of this tragedy, and I believe we are now well on our way to doing so. The most tangible and immediate result of this meeting has been the commitments in regard to resettlement places and financial contributions, which the High Commissioner has just summarized. This will mean, in practical terms, that within the next months tens of thousands of refugees will move away from the present camps to begin new lives. But the scope of the problem is much larger. To resolve it will require humane policies by all concerned, respect for certain fundamental principles, and the carrying out of a plan of action which would be based on the various proposals advanced through our deliberations.

The principles to which I refer involve an inter-relationship of obligations and responsibilities on the part of the countries of origin, those of final resettlement, and those of first asylum. The countries of origin must respect the right of emigration and family reunification, while avoiding any action leading to their people departing the country under conditions which would put their lives in jeopardy. This obligation stems from the basic right of individuals to stay in their country or to leave as a matter of free will. The countries from which refugees come, have the responsibility to co-operate fully with the UNHCR and the other countries concerned to ensure an orderly outflow. What we mean by this is orderly arrangements for departure, the prospect of a safe journey and a destination which is assured.

Taking into account the fact that the countries of first asylum are developing countries confronted with economic and social constraints it is clear that others outside the area must assume the principle responsibility for resettling.

However, pending arrangements for resettling, it is essential that the countries of initial arrival should fully respect the principle of first asylum, both for land and sea refugees. There should be no refoulement.

Of course, each Government, depending on whether it is a country of origin, of first asylum, or final resettlement, puts the emphasis on different principles. Whereas, the countries of first asylum require a definite pledge that they should not be burdened with residual problems and the assurance that no refugees will stay in their country for more than a specific period, the resettlement countries have referred to the need for a degree of local settlements within the region and have offered significant financial contributions to facilitate this process.

I consider this meeting has served a very useful purpose in clarifying and underlining the interdependence between those elements and am confident that they can and will be reconciled within the framework of a comprehensive plan of action.

Certain important aspects of the plan as they have emerged may be highlighted.

First, we must work with the utmost speed to reduce the backlog. This can only be done by resettlement on a far greater scale and much faster than hitherto. It is clearly understood that this movement should cover land cases as well as boat cases. I feel greatly encouraged by the increase in commitments made during this meeting and feel confident

that our objective will be substantially achieved.

Second, another element closely related is the understanding reached between the Government of Viet Nam and the UNHCR for the orderly departure from Viet Nam of family reunions and other humanitarian cases. This should be expanded and I have noted that many governments wish this to be done. This expansion should not be at the expense of those in the camps of South-East Asia.

Third, a major breakthrough has been achieved in this meeting on the establishment of holding centers. The measure is one of the pillars of the action plan and as the High Commissioner for Refugees has said, we will follow through immediately. The availability of these facilities can make a direct and important contribution to reducing the dangers now surrounding the exodus of refugees. They will provide a greatly needed transit area pending resettlement. Coupled with assurances that residual cases would not be abandoned in these centers, they should offer a major reassurance to the countries of first asylum. Work will start shortly on the Galang Island offered by Indonesia. The Philippine Government, in a move which has won the appreciation and gratitude of all of us, has offered a new site for 50,000 refugees, to be funded by UNHCR.

Fourth, rescue at sea deserves special attention. I note with appreciation the noble and humane action undertaken by several countries which are sending ships to the area to rescue refugees in distress. As you have been informed by the High Commissioner, the United Nations is taking the leadership in organizing an international co-operative effort in this area.

In conjunction with the plan of action I have just outlined, there are certain situations which deserve special attention. I think, for example, of those suffering people along the border of Kampuchea and Thailand, exposed to the threat of famine, and to the ebb and flow of conflict. I have no doubt that the world community will wish the United Nations family to do whatever it can to alleviate the suffering which afflicts these people.

These, then, are the major elements of the plan of action.

During our deliberations, several additional or supporting proposals were put forward. All these proposals have been noted. Together with the High Commissioner for Refugees, I will study those proposals with utmost care and consult with the Governments concerned on their feasibility. I wish to thank all the Governments for their willingness to come forward with concrete ideas.

We need no reminder of the fact that, however substantial the resettlement programme we shall endeavour to implement, it cannot be successful over the long run without major reduction in the disorderly exodus of thousands of people from their homelands. This is the root cause which has been emphasized so much in the last two days. I am glad that, with infrequent exceptions, this analysis has been generally objective and non-polemical.

Distinguished delegates, as a result of my consultations the Government of the Socialist Republic of Viet Nam have authorized me to inform you that for a reasonable period of time it will make every effort to stop illegal departures. In the meantime the Government of Viet Nam will co-operate with the UNHCR in expanding the present seven-point programme designed to bring departures into orderly and safe channels.

I may also recall that a proposal was made here, supported by a number of countries, for a moratorium on unorganized departures from Viet Nam.

Distinguished delegates, ladies and gentlemen, I have noted with appreciation the many expressions of support for the UNHCR. I am sure that Mr. Hartling and his dedicated staff will draw from these words new encouragement in their untiring efforts to bring relief to the refugees.

I shall personally and through my Special Representative in the area, watch closely the developments following on this meeting. The role of the Special Representative will be, in particular, to maintain close and continuous contact with the Governments concerned and to liaise between them and me.

This meeting has greatly served to strengthen the efforts of UNHCR and I know other agencies of the United Nations system are also ready to intensify their activities as required by the plan of action. I can assure you that I shall do all I can to bring the best possible response from the entire United Nations system. The continued and devoted co-operation of many others, particularly the voluntary agencies, will be indispensable, and I should like to thank them most sincerely for all their efforts.

Distinguished delegates, evidently, the conclusions we have reached at this meeting cannot be the end of our efforts. We will now have to see to it that these conclusions are fully implemented through the United Nations machinery. And it is my intention to present to the next General Assembly a comprehensive report on the situation and the implementation of the action plan. May I again express my gratitude to you for your spirit of co-operation which enabled us to achieve this result. I am confident that we have laid the foundation for the solution of one of the most tragic experiences which the world has faced.

The meeting is hereby closed.●

Mr. THURMOND. Mr. President, I rise today to express my favorable reaction to the action taken by the United Nations Conference on World Refugees in Geneva, Switzerland, on July 20 and 21. This is the second Conference in regard to the World Refugee Problem which has arisen in Southeast Asia, an earlier one being held in Geneva, Switzerland in December, 1978. The Nations of the World have responded well to the plight of the "boat people" of Vietnam and the "land people" from Laos and Cambodia. Sadly, it appears that the problem will be an ongoing one which we must meet in the months and years ahead.

The United States of American and its people are no strangers to the problems of the refugees and their dependents. We are a Nation made up of refugees and their ancestors. The tired and homeless, and poor of the world have given to the greatness of our land and its people. But we and the other nations of the world cannot rest on our laurels. The nations of the world must continue to make even greater efforts in rising to the challenge which confronts them.

I was pleased to note that the Peoples Republic of Vietnam was present for this significant and moving meeting. The United States was well represented by the Vice President of the United States and Members of the U.S. House of Representatives, personnel of the Department of State, including the Honorable Dick Clark, Ambassador for Refugee Affairs, and various staff members of both Houses of the U.S. Congress. I am informed by the media and those who were present, that progress was made in all phases which will contribute to an ending of an exodus which has taken so many human lives. History will note that the nations of the world have risen to meet the challenge which faces each of us individually and as a people. I trust the verdict of history will not be adverse.

Further, I am happy to note that no disinterested nation contends that the exodus of the boat and land people in Southeast Asia is a result of the war in Vietnam which ended in 1975 in Vietnam. This contention was made only by the Peoples Republic of Vietnam in Asia. I concur in the verdict of world opinion that the said war is not the culprit which gives rise to the fateful exodus of the ethnic Chinese from Vietnam and other peoples from their homeland. The verdict is just and proper against Vietnam and its sponsor, the Soviet Union. It is my hope that these nations will cease to do those things which cause these people to make the fateful decision to risk their lives and the lives of their dependents as a refugee on the sea and the lands of their neighbors.

The nations of first asylum of these refugees are to be commended. The nations which extend resettlement in their homelands are to be commended in a like manner. Also, the voluntary private organizations, secular and otherwise, are to be commended for their untiring efforts in behalf of the refugees of Southeast Asia.

Mr. President, I would like to state at this time for the record that when the refugee bill, S. 643, came on for consideration on Tuesday last, before the Senate Judiciary, the bill, by agreement between the majority and the minority, was ordered favorably reported unanimously by the committee. Further, it was agreed that the refugee bill would not be considered by the Senate until after the United Nations Conference was concluded.

I am pleased that our Vice President reiterated that our armed forces were expanding their services to the helpless and drowning refugees at sea. The law of the sea is impartial and just; the only element required to set the law of the sea in motion is need. This standard has served us well. We will continue in the same manner our people have required in the past. This is rightfully so.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

John Mark Deutch, of Massachusetts, to be Under Secretary of Energy.

(The above nomination from the Committee on Energy and Natural Resources, was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly authorized committee of the Senate.)

Mr. JACKSON. Mr. President, on Saturday, July 21, 1979, the Committee on Energy and Natural Resources

ordered reported favorably the nomination of John Mark Deutch, of Massachusetts, to be Under Secretary of Energy.

I ask unanimous consent that his biography be printed in the RECORD.

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

JOHN M. DEUTCH

Dr. John M. Deutch, was named Acting Under Secretary of Energy effective, June 1, 1979.

Dr. Deutch, who was nominated to the position May 25, 1979, by President Carter and is awaiting Senate confirmation, had been serving as Director of Energy Research and Acting Assistant Secretary for Energy Technology.

As Acting Assistant Secretary for Energy Technology since January 1979 he directed activities aimed primarily at developing new energy technologies to the point of commercial applications. This included research, development and demonstration program involving all emerging energy sources.

As Director of the Office of Energy Research, Dr. Deutch oversaw the basic research programs of the department. He held that position since the creation of DOE in October 1977.

Dr. Deutch became an assistant professor of chemistry at Princeton University in 1966, and remained at that institution until 1969. He joined the faculty at MIT in 1970 as associate professor and became chairman of the chemistry department in 1976.

From 1961 to 1965 Dr. Deutch worked on systems analysis in the Office of the Secretary of Defense. In 1965 and 1966 he was a consultant for program analysis in the Bureau of the Budget.

Dr. Deutch was born July 27, 1938, in Brussels, Belgium, and became an American citizen in 1946. He received a B.A. in history and economics from Amherst College and a B.S. in chemical engineering from MIT in 1961, and earned a Ph.D. in physical chemistry from MIT in 1965. He was a postdoctoral fellow at the National Bureau of Standards.

Dr. Deutch serves on the Defense Science Board and the Army Science Advisory Panel. He has also been an editorial board member of the "Annual Review of Physical Chemistry" and "Chemical Physics." He is the author of numerous publications.

EXTENSION FOR COMMITTEE ON GOVERNMENTAL AFFAIRS TO CONSIDER A NOMINATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs have an extension of time until July 26, 1979, to consider the nomination of Eldon D. Taylor to be inspector general of the National Aeronautics and Space Administration.

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. JACKSON (by request):

S. 1560. A bill to amend the Helium Act (50 U.S.C. 167 et seq.) to delete requirements to repay notes, equity debt, and interest accrued and unpaid thereon; to authorize and direct the Secretary of the Treasury to cancel all notes and debits related to the Helium Fund together with interest accrued and unpaid thereon; to eliminate the Secretary's borrowing authority; and, to eliminate the Helium Fund; to the Committee on Energy and Natural Resources.

By Mr. TOWER:

S. 1561. A bill for the relief of Doctor Ricardo Mateo Rodriguez; to the Committee on the Judiciary.

By Mr. COHEN:

S. 1562. A bill to amend the Internal Revenue Code of 1954 to provide for the partial exclusion of interest from gross income; to the Committee on Finance.

By Mr. DURKIN (for himself, Mr. STAFFORD, Mr. LEAHY, and Mr. LAXALT):

S. 1533. A bill to terminate the Department of Energy; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JACKSON (by request):

S. 1560. A bill to amend the Helium Act (50 U.S.C. 167 et seq.) to delete requirements to repay notes, equity debt, and interest accrued and unpaid thereon; to authorize and direct the Secretary of the Treasury to cancel all notes and debts related to the helium fund together with interest accrued and unpaid thereon; to eliminate the Secretary's borrowing authority; and, to eliminate the helium fund; to the Committee on Energy and Natural Resources.

HELIUM ACT AMENDMENTS OF 1979

● Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to amend the Helium Act (50 U.S.C. 167 et seq.) to delete requirements to repay notes, equity, debt, and interest accrued and unpaid thereon; to authorize and direct the Secretary of the Treasury to cancel all notes and debts related to the helium fund together with interest accrued and unpaid thereon; to eliminate the Secretary's borrowing authority; and, to eliminate the helium fund.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Assistant Secretary of the Interior be printed in the RECORD.

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

S. 1560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Helium Act Amendments of 1979."

SEC. 2. (a) Section 6 of the Helium Act (50 U.S.C. 167(d)) is amended:

(1) by striking subsection (c) and inserting in lieu thereof the following:

"(c) Sales of helium by the Secretary shall be at prices consistent with the purposes of this Act but not below current market value.

(2) by striking subsection (d) and redesignating subsection (e) as subsection (d).

(3) by striking subsection (f); and

(4) by adding the following new subsections at the end thereof:

"(e) The Secretary of the Treasury is authorized and directed to cancel the outstanding balance of all unpaid notes issued to the Secretary of the Interior pursuant to section 12 of the Helium Act (50 U.S.C. 167(j)), together with interest accrued and unpaid on such notes, and to cancel the outstanding balance on the net capital and retained earnings debt of the helium production fund established pursuant to section 6 of the Helium Act (50 U.S.C. 167(d)) together with interest accrued and unpaid thereon. Any unobligated cash balances remaining on the effective date of this Act and any monies received thereafter on transactions heretofore or hereafter entered into under the Act shall be covered into the Treasury as miscellaneous receipts."

(f) Any borrowing authority previously authorized by section 12 of the Helium Act (50 U.S.C. 167(j)) is hereby cancelled.

(b) Section 12 of the Helium Act (50 U.S.C. 167(j)) is amended to read as follows:

"There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act."

SEC. 3. Section 3 of the Helium Act (50 U.S.C. 167(a)(2)) is amended by deleting the words "except that the Secretary shall not make . . . in an appropriation Act, or . . ." and by inserting in lieu thereof "and".

SEC. 4. Public Law 87–122 (75 Stat. 246) is amended by deleting the section entitled "Development and Operation of Helium Properties".

SEC. 5. The amendments made by this title shall take effect on the date of enactment of the appropriation act associated with this Act, or October 1, 1980, whichever comes later.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 17, 1979.

Hon. WALTER F. MONDALE,
President of the U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: We are enclosing herewith a proposal "to amend the Helium Act (50 U.S.C. 165 et seq.) to delete requirements to repay notes, equity debt, and interest accrued and unpaid thereon; to authorize and direct the Secretary of the Treasury to cancel all notes and debts related to the Helium Fund together with interest accrued and unpaid thereon; to eliminate the Secretary's borrowing authority; and to repeal the authorization of the Helium Fund."

We recommend that the bill be referred to the appropriate committee for consideration and that it be enacted.

The financing of the Federal Helium Program is regulated by sections 6(c), (d), (f), and 12 of the Helium Act of 1960. The Helium Act established a "helium production fund," without fiscal year limitation, to receive proceeds from the Bureau of Mines' sales of helium and from borrowing from the Treasury, and from which to disperse these funds for program operations, including purchases of crude helium and repayment of borrowings.

A statement of the financial condition of the Federal Helium Program as of October 1, 1978, is shown in Attachment 1. The principal asset of the program is helium purchased from 1962 to 1973 and currently valued at $620 million. Approximately $250 million was originally borrowed from the Treasury of these purchases. The Helium Act of 1960 requires the Secretary of the Interior to repay this principal plus compound interest by 1985, although the Secretary may obtain a ten-year extension of this requirement if necessary. Repayment of these borrowings plus the compound interest constitute the major financial liability of the program. Recently repayments of $1 million per year have been made from operating income in 1976–1978. Compound interest is currently accru-

ing at a rate of about $30 million per year. As of October 1, 1980, the total Helium debt is estimated to be $557 million.

With the growth of private helium production during the 1960's and the sharp reduction in demand for Federal uses, actual sales of the helium by the Bureau of Mines have differed significantly from the expectations on which the debt repayment schedule was based. Current demand projections indicate that it is unlikely that the helium debt can ever be paid off and the interest owed to the Treasury will simply continue to accumulate, as shown in Attachment 2. The continuing accounting burden it creates is expensive and wasteful. We believe, therefore, that the fund debt should be eliminated.

A precedent for this approach is contained in the Defense Production Act Amendments of 1974 (P.L. 93-426, dated September 30, 1974). The original borrowing authority for the Defense Production Act of 1950 was used to expand production capacity by various means, including purchases of materials for stockpiles. Anticipated future sales of stockpiled materials were to sustain the liquidity of the fund and repay the debt. For reasons beyond the control of the parties involved, these future sales did not materialize, and the debts continued to grow due to interest obligations. The 1974 Amendments, extending the Defense Production Act of 1950, cancelled the outstanding liability to the Treasury accumulated under this borrowing authority, and substituted conventional appropriations methods for supporting future programs. In the absence of this legislation, the Defense Production Act fund could have gone bankrupt.

This legislation also proposes to repeal authorization of the Helium Fund and to authorize direct appropriations for program operations. The recommendation to eliminate the fund debt recognizes the fact that the program cannot achieve self-financing status. Under these circumstances it is inappropriate to continue to fund the program through the mechanism of a public enterprize revolving fund.

The Department of the Interior and Related Agencies Appropriations Act of 1962 P.L. 87-122) authorized the Secretary to borrow $10 million from the Treasury to finance helium operations and it provided a permanent annual appropriation of $47.5 million in contract authority for the purchase of helium. The attached draft legislation cancels both the borrowing authority and the annual appropriation of contract authority. There has been no borrowing from the Treasury since the early 1970's and the $47 million appropriation of contract authority has either lapsed or been rescinded every year since that time. Any future program expansion should be financed by direct appropriations. Upon enactment of these provisions, revenues from the sale of helium will thereafter be deposited directly into miscellaneous receipts of the Treasury.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft bill and that its enactment would be consistent with the Administration's objective.

Sincerely,

JOAN M. DAVENPORT,
Assistant Secretary.

Enclosures.

BUREAU OF MINES—HELIUM FUND, STATEMENT OF FINANCIAL CONDITION

[In thousands of dollars]

	Financial condition			
	1977 actual	1978 actual	1979 estimate	1980 estimate
Assets:				
Fund balance with Treasury	7,709	7,282	4,870	3,547
Accounts receivable, net	2,936	1,115	1,000	1,000
Advances made	8	8	5	5
Inventories	590,816	619,822	651,661	686,413
Real property and equipment, net	21,586	21,691	23,851	26,838
Other assets, net	3,004	4,249	5,204	3,219
Total assets	626,059	654,167	686,591	721,022
Liabilities:				
Accounts payable and funded accrued liabilities	30,038	30,001	30,600	30,500
Advances received	599	606	800	900
Debt issued under borrowing authority:				
Borrowing from Treasury	251,650	251,650	251,650	251,650
Net worth	31,645	30,645	30,645	30,645
Interest due on net worth and borrowing	183,157	211,190	241,946	275,099
Total liabilities	497,089	524,092	555,641	588,794
Government equity:				
Unexpended budget authority:				
Authority to borrow	3,127	3,127	3,127	3,127
Fund balance	8,746	6,197	2,878	1,555
Undelivered orders	673	1,004	1,000	1,000
Unfinanced budget authority:				
Borrowing authority	−3,127	−3,127	−3,127	−3,127
Contract authority	−29,403	−29,403	−29,403	−29,403
Invested capital	148,954	152,277	156,475	159,076
Total Government equity	128,970	130,075	130,950	132,228

By Mr. COHEN:

S. 1562. A bill to amend the Internal Revenue Code of 1954 to provide for the partial exclusion of interest from gross income; to the Committee on Finance.

SMALL SAVERS INCENTIVE ACT OF 1979

Mr. COHEN. Mr. President, I am today introducing legislation to exclude from taxation the first $150 of interest earned on a savings account at a bank, savings and loan association, or credit union.

This legislation would accomplish two goals: First, it would provide modest tax relief for the small saver; and second, it would encourage a greater level of savings.

During his recent speech to the Nation, President Carter mentioned that Americans save a smaller percentage of their incomes than any other Western, industrialized nation. This is true. According to the Commerce Department figures based on a 5-year average between 1973 and 1977, consumers in the United States saved only 6.7 percent of their disposable incomes, compared to 14 percent for the citizens of Great Britain, 15.2 percent for the West Germans, and 25 percent for the Japanese. The President attributed this low level of savings to a lack of confidence in the future.

I believe, however, that Americans are simply reacting logically to the present very real disincentives to savings. Unrelenting inflation, low interest rates on passbook savings accounts, and the taxation of interest income have combined to discourage many individuals from trying to save.

The real rate of return on most savings, due to taxes and inflation, has actually been negative for several years. Former Secretary of the Treasury Blumenthal recently estimated that a person in the 30-percent Federal income tax bracket had the value of his savings in a passbook account decline by more than 5 percent last year after taxes and inflation. Many families rightfully believe that they are better off spending now than saving for the future as long as inflation continues unabated and their interest income is taxed.

A tax break for savers would also help our older citizens, many of whom are retired and living on their accumulated savings—savings that have been severely eroded by rampaging inflation.

Providing a tax incentive for savers would also generate greater levels of savings. Personal savings represent a principal source of investment capital in this country, and our low level of savings is one reason why capital formation in this country has lagged behind other industrialized nations. Without adequate savings, funds for construction of new homes and plants and for purchasing equipment are insufficient. As a consequence, productivity declines, inflation soars, and few new jobs are created. An increased level of savings would help cool the inflation rate, not only by providing more funds for investment, but also by reducing consumption levels.

In addition to my own, several other bills have been introduced in both the House and the Senate which would provide increased incentives to those individuals who have managed to save a portion of their incomes. All of these proposals, however, entail a significantly greater revenue loss than would my legislation. By establishing a $150 interest exemption ceiling for the individual taxpayer, the cost of my proposal would be held to approximately $1.4 billion in the first year. At a time when we are

moving toward a balanced budget. I think that it is important that the cost of new tax incentives—no matter how worthy—be restrained. When economic conditions improve, the interest exemption could be expanded to provide even greater tax relief and to encourage more investment. In this regard, this incentive would be a useful tool in fiscal policy.

Mr. President, the time has come for Congress to correct the bias in our tax laws which favors consumption over savings. I hope that Congress will act quickly to approve this legislation.

By Mr. DURKIN (for himself, Mr. STAFFORD, Mr. LEAHY, and Mr. LAXALT):

S. 1563. A bill to terminate the Department of Energy; to the Committee on Governmental Affairs.

DEPARTMENT OF ENERGY SUNSET ACT

● Mr. DURKIN. Mr. President, I am today introducing a bill which will sunset, put an expiration date on, the Department of Energy as of June 1, 1981. The Department of Energy is a disaster, and unless it can improve dramatically between now and the time specified in my amendment, it should be abolished with only the very useful programs within the Department saved and dispersed to more competent departments.

Since its creation in 1977, the Department of Energy has calmly presided over massive confusion and chaos, creating more energy problems for America than it solves.

Its incompetence and inaction has led to gasoline lines and home heating oil shortages for consumers, at the same time it has contributed to obscene profits for the major multinational oil companies.

DOE's bungled efforts to manage our energy supplies have disrupted the lives of nearly every American, and threaten to destroy major sectors of our economy. In New Hampshire, the gasoline shortages have virtually decimated the tourist, recreation, and sport industries which are dependent on heavy summer trade. Our hard pressed small independent gasoline stations owners have been forced against the wall by the misguided policies of DOE. Hard-working New Hampshire families have had to curtail their vacation plans, and in fact are even having difficulty getting to and from work because there are virtually no mass transit systems in my State.

The energy outlook for New Hampshire and New England is even grimmer this winter. Although we represent only 6 percent of the population, we use 25 percent of the home heating oil consumed in this Nation. The home heating oil stocks needed for a normally cold winter are not being built up fast enough. The most recent figures available show the primary stocks of home heating oil are 20 million barrels below the stockpile level at this same time last year and a careful study of secondary stocks in New Hampshire, those held by local distributors, shows a 50-percent drop in supplies from last summer. Instead of ordering the major oil companies to increase production of gasoline and home heating oil and their set-asides to meet the Nation's heating oil needs, the Department of Energy persists in sitting passively by, as New Hampshire's working families, small businesses, and senior citizens face the growing prospect of severe home heating oil shortages this winter.

The Department of Energy has further aggravated the energy plight of New Hampshire's consumers by obstructing efforts that would reduce our dependence on costly, foreign oil. Time and time again, it has blocked my efforts to promote the rapid development of alternative energy—solar, hydroelectric power, wind, wood—through either direct opposition during the appropriations process or through cumbersome, unnecessary redtape and Federal regulation.

I voted against the creation of the Department of Energy because I did not think that adequate consideration and preparation had been given to it. Unfortunately for the American people, events have proved my concerns to be all too valid. What we have now is a massive white elephant which, with a few notable exceptions, is doing more to worsen the energy problems our country faces than to solve them.

The Department of Energy was created in order to combat the energy problem, now and in the future. DOE was to accomplish this task by bringing together the varied and dispersed elements of Federal energy regulation and research into a comprehensive and centralized cabinet-level organization from which coherent energy decisions would emanate. But instead, since its inception the country's crisis in energy has deepened, and the DOE has failed to prove sufficient ability to deal effectively with the problem.

Because of this lack of a clearly demonstrated capacity to handle America's energy needs, this sunset amendment is necessary in order to determine whether or not the DOE, as presently constituted, is the most effective and efficient Federal governmental vehicle to face America's energy problems.

One of my major concerns is the very philosophy underlying the DOE. For instance, one of its official functions is the conducting and/or oversight of research into new energy technologies and the sponsoring of their subsequent commercialization. However, one must wonder if the DOE will ever be the proper medium for this commercialization of new energy technologies, since, conceivably, if these lead to a solution, partial or complete, of the energy problem, the DOE would put itself out of business. And, as we all know, one of the primary objectives of Federal bureaucracies is survival and constant expansion at the expense of the taxpayers.

I am also skeptical that the Department of Energy, a big, sprawling Federal bureaucracy, can handle problems as well as local or regional levels of Government. Indeed, many energy needs are of a distinctly State or local character, and it would be more effective to have these handled by a Government apparatus at the same level. Also, in many energy areas the tax code has shown itself to be a more efficient and popular means of empowering people to solve their own problems.

In addition to these concerns about the basic approach of our energy policy, there are important problems with the execution and operation of the Department's present programs. For example, a recent "management audit" by an independent consulting firm revealed DOE's management to be poorly organized, policy-planning to be haphazard at best, and the field units not to be integrated into the Washington office. Even Deputy Secretary John O'Leary has admitted that it will be 2 years before the Department achieves organizational coherence. An eye-opening article in the Washington Post recently pointed out, "it is impossible not to conclude that, far from hastening a national attack on the energy problem, the creation of the Department of Energy has postponed it by 3 to 5 years." Without prospects such as these, it is perhaps fortunate that the DOE was not in existence during the time of Thomas Edison, as he might not have bothered to invent the light bulb if he had to deal with the administrative hassles of the DOE.

By proposing the sunset of the DOE, I am aware of the many problems and inherent inadequacies of the DOE and its handling of America's energy needs. A thorough examination is needed to determine the correct path and method for effectively eliminating our energy problem. I believe the DOE is not the best way, and if it is not, we urgently need to find it, as this sunset proposal will help determine.

It is vital that the next Congress not take the existence of the Department of Energy as immutable. Perhaps the next Congress will decide to reauthorize the Department. But given the great inertia that bureaucracies of this size build up, the presumption of continued existence should not be granted. Public agencies such as DOE must be forced to perform better than they are today. I believe in periodic sunset reviews which place the burden of justification on the Department, rather than on the hard-pressed taxpayer.

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. 1563

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 "Department of Energy Sunset Act".

SEC. 2. Title X of the Department of Energy Organization Act is amended to read as follows:

"TITLE X—SUNSET PROVISIONS

"EXPIRATION

"SEC. 1001. The provisions of this Act shall expire on June 1, 1981.".●

ADDITIONAL COSPONSORS

S. 18

At the request of Mr. MCCLURE, the Senator from Arizona (Mr. GOLDWATER) and the Senator from Utah (Mr. GARN) were added as cosponsors of S. 18, a bill

to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for certain amounts of savings.

S. 25

At the request of Mr. BAYH, the Senator from Alabama (Mr. STEWART) was added as a cosponsor of S. 25, a bill to designate the birthdate of Dr. Martin Luther King, Jr., as a national holiday.

S. 30

At the request of Mr. HELMS, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of S. 30, a bill to repeal the standby power of the President to seize gold.

S. 35

At the request of Mr. HELMS, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of S. 35, a bill to repeal the Credit Control Act of 1969.

S. 115

At the request of Mr. MATHIAS, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 115, the Third Party Privacy Act.

S. 873

At the request of Mr. RIBICOFF, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 873, a bill to amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad.

S. 955

At the request of Mr. HELMS, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of S. 955, the Taxpayers' Bill of Rights Act.

S. 1055

At the request of Mr. HELMS, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 1055, the Gold Coinage Act of 1979.

S. 1203

At the request of Mr. BAYH, the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 1203, a bill to amend title II of the Social Security Act to provide that the waiting period for disability benefits shall not be applicable in the case of a disabled individual suffering from a terminal illness.

S. 1430

At the request of Mr. DOLE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1430, a bill to extend and improve title V of the Social Security Act.

S. 1435

At the request of Mr. PACKWOOD, the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 1435, a bill to provide a system of capital recovery for investment in plant and equipment, and to encourage economic growth and modernization through increased capital investment and expanded employment opportunities.

S. 1530

At the request of Mr. RIBICOFF, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1530, a bill to change the method of medicare reimbursement for health maintenance organizations.

SENATE RESOLUTION 184

At the request of Mr. HELMS, the Senator from New York (Mr. JAVITS) was added as a cosponsor of Senate Resolution 184, a sense of the Senate resolution regarding the matter of Josef Mengele.

SENATE CONCURRENT RESOLUTION 27

At the request of Mr. DOLE, the Senator from New Hampshire (Mr. HUMPHREY) and the Senator from Florida (Mr. STONE) were added as cosponsors of Senate Concurrent Resolution 27, calling for the establishment of a common economic bond between the United States, Canada, and Mexico.

AMENDMENT NO. 210

At the request of Mr. SASSER, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of amendment No. 210 intended to be proposed to S. 712, the rail passenger service authorization bill.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Human Resources has scheduled a hearing on Thursday, July 26, 1979 at 10 a.m. in room 4232 Dirksen Senate Office Building, on the nomination of Patricia Roberts Harris, of the District of Columbia, to be Secretary of Health, Education, and Welfare.●

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public a hearing scheduled by the Senate Committee on Energy and Natural Resources on the nomination of Mr. Charles W. Duncan, Jr. of Texas to be the Secretary of Energy.

The hearing will begin at 8 a.m. on Monday, July 30, 1979 in room 3110, Dirksen Office Building, with the full committee business meeting to resume at the conclusion of the hearing.

Questions concerning the nomination hearing should be directed to Daniel A. Dreyfus, Staff Director, Senate Committee on Energy and Natural Resources, Washington, D.C., 20510, telephone 202/224-4971.●

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. SASSER. Mr. President, I wish to announce that the Governmental Affairs Committee will hold a hearing at 9:30 a.m. on Wednesday, July 25, on the appointment of John W. Macy, Jr. of Virginia, to be Director of the Federal Emergency Management Agency. The hearing will be held in room 3302 of the Dirksen Building.●

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION, AND FEDERAL SERVICES

● Mr. GLENN. Mr. President, I wish to announce a markup which my Subcommittee on Energy, Nuclear Proliferation, and Federal Services will be holding on Wednesday, July 25, 1979. The subcommittee will mark up two bills, S. 1096 and S. 1110—bills which relate to postage rates. The markup will begin at 1:15 in room S-206 in the Capitol.●

COMMITTEE ON RULES AND ADMINISTRATION

● Mr. PELL. Mr. President, as chairman of the Committee on Rules and Administration I announce that on Thursday, July 26, at 2:15 p.m. (instead of Tuesday, July 24, as previously announced), the committee will meet in room S-126 of the Capitol Building to consider and mark up proposed amendments to the Federal Election Campaign Act, along with other legislative and administrative business.●

SUBCOMMITTEE ON THE CONSTITUTION

● Mr. BAYH. Mr. President, the hearings scheduled before the Subcommittee on the Constitution, Committee on the Judiciary for July 25, 1979 at 1 p.m. in room 6226 Dirksen Senate Office Building on legislation proposing a constitutional amendment for a balanced Federal budget, have been rescheduled for 2 p.m. on that same date and in that same hearing room.

Anyone wishing to submit testimony for the hearing record should send their statement to, or contact Kevin Faley or Linda Rogers-Kingsbury, 102-B Russell Senate Office Building, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 24, 1979 to hold an executive session on the SALT II Treaty.

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

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the European Affairs Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 25, 1979 beginning at 2:00 p.m. to hold a hearing on the Salt II Treaty.

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

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the sessions of the Senate on today, July 23; Tuesday, July 24; Wednesday, July 25; Thursday, July 26; and Friday, July 27, 1979 to hold hearings on the military implications of the Salt II Treaty.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, July 27, 1979 beginning at 2:30 p.m. to hold a hearing on certain Executive nominations.

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

SUBCOMMITTEE ON THE HANDICAPPED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Handicapped Subcommittee of the Committee

on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, July 26, 1979, beginning at 1:00 p.m. to hold an oversight hearing on Public Law 94–142, Education for the Handicapped Children Act.

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

ADDITIONAL STATEMENTS

THE COURSE OF ENERGY

● Mr. TOWER. Mr. President, as the Senate begins to tackle President Carter's more recent package of energy policy proposals, it is imperative that every effort be made to keep in perspective the past, present, and future course of energy policy in this country. The Wall Street Journal often provides that kind of needed perspective, and that newspaper's analysis of the President's July 15 address is no exception. The Wall Street Journal of July 17, 1979, correctly concludes:

Out of all the sermonic and confusing rhetoric President Carter has showered on the American public these last two days, at least one thing is clear. The President has weighed the merits of either getting the government out of the energy business or getting it more deeply in. He has chosen to get it further in, on a massive, almost unbelievable scale. The real Jimmy Carter has finally stood up, on the far left of the Democratic Party.

Because I believe this series of articles in the July 17 issue of the Wall Street Journal so clearly exposes the bankruptcy of Carter energy policy, I ask that the text of these commentaries be printed in the RECORD.

This material follows:

THE REAL JIMMY CARTER

Out of all the sermonic and confusing rhetoric President Carter has showered on the American public these last two days, at least one thing is clear. The President has weighed the merits of either getting the government out of the energy business or getting it more deeply in. He has chosen to get it further in, on a massive, almost unbelievable scale. The real Jimmy Carter has finally stood up, on the far left of the Democratic Party.

There'll be a new government "Energy Security Corp." to siphon $140 billion in "windfall profits" from the oil companies over the next 10 years. That would pretty much eliminate oil profits of any kind. While the oil companies quietly pass out of business, the ESC would squander this money on expensive and technologically risky forms of energy.

There'll be an Energy Mobilization Board to ride roughshod over normal legal processes, except maybe those that are mainly responsible for retarding energy development the environmental laws, for example.

There'll be a new army of government inspectors souring the country, levying $10,000 fines on any hapless building operator whose thermostats are showing something less than 78 degrees. Electric utilities will be "made" to switch out of oil—as if they themselves, and not the government, are to blame for their not doing that.

There'll be a federal "Solar Bank" finally to capture the elusive riches of solar power. The President will set conservation goals for states, import quotas for the nation, etc.

In short, Mr. Carter has reacted to the public's low opinion of his administration by "getting tough" and proposing a further suspension of private freedoms. He justifies this on grounds that it is the American people, not his administration and the Congress, who deserve the blame for our economic problems. He summons up the memory of Franklin Roosevelt as he casts himself in the role of a President leading the country out of awful crisis; except where FDR confronted Depression and poverty, Mr. Carter seems to find his crisis in excessive affluence:

"Too many of us now tend to worship self-indulgence and consumption . . . we have learned that piling up material goods cannot fill the emptiness of lives which have no confidence or purpose . . . the symptoms of this crisis of the American spirit are all around us: two-thirds of our people do not even vote, the productivity of American workers is actually dropping and the willingness of Americans to save for the future has fallen below that of all other people in the Western world . . . there is a growing disrespect for government and for churches and for schools, the news media and other institutions. . . ."

Quite an indictment. It is the kind of indictment clergymen use to lash their congregations with on Sunday mornings and it is appropriate in that setting of spiritual redemption. But it is highly inappropriate coming from the man who is supposed to be managing the affairs of the United States government. The two key problems that provoked this rhetorical outburst—inflation and gasoline lines—are clearly and directly attributable to the policies of the Carter administration.

The gasoline lines are caused by the government's refusal to remove price controls, and hence supply allocations. Given the enormous economic inefficiencies that have resulted from this refusal, it now seems clear that prices of gasoline would fall, not rise further, after decontrol. Other forms of government intervention—energy use regulation and draconian environmental rules, in particular—have added to the dislocations and inefficiencies. It doesn't take a $140 billion government program to solve the energy problem; the problem would evaporate if the government would simply get out of energy.

As to those other problems of the American "spirit," low savings and productivity and low confidence in institutions—the main cause is inflation. Why should anyone have confidence in a government that can't balance its budget or run a stable monetary policy? Or why should they save the money it prints?

Now, it seems, it will be necessary to print still more money, and generate still more inflation, to finance the latest grandiose schemes dreamed up by the statists who hold the President in their grip. They are in the saddle and they are exultant about the President's vigorous showmanship Sunday night and Monday. The only trouble is that the policies he has proposed will only get the country into a deeper tangle. And next year, the voters will have a chance to decide which side they're on—or at least so we hope.

FROM HOMILY TO DEMAGOGY

For about five minutes Sunday night, President Carter's rhetorical offensive struck the right note. The appeal to American confidence and the attack on the isolation of the federal government recalled the best of the grass-roots campaign that brought this political unknown to the White House. But just 12 hours later, in his Kansas City speech to the National Association of Counties, the President reverted to the dark side of grass-roots rhetoric. Instead of providing "honest answers" and "clear leadership," he sought to obscure the true causes of the current energy debacle with some old-fashioned populist scape-goating.

This tactic was signaled Sunday in the untrue statement that our excessive dependence on OPEC "is the direct cause of the long lines that have made millions of you spend aggravating hours waiting for gasoline." OPEC can be attacked for high prices, but the one thing this cartel has not been able to enforce are production cutbacks by its members. The current shortfall in world oil production comes directly from a revolution in Iran, in which U.S. foreign policy played a considerably larger role than OPEC decisions. But even this shortfall wouldn't have caused the gas lines, as it didn't in most of Europe, were it not for the massive market distortions of the federal price control and allocation systems. But it's far easier to attack dark-skinned foreigners, along the lines of the famous Eizenstat memo, than to admit the one's own policies and administrators have failed.

The Kansas City speech broadened the rhetorical offensive. "The oil companies must cooperate!" Mr. Carter declared. "We will bring the full force of the law to bear on those who profiteer . . . or who try to cheat the American public." Six hundred auditors will be deployed to keep refiners and oil dealers in line. Energy statistics will be checked and rechecked.

The President must know that auditors don't drill oil wells and that collecting figures on energy reserves doesn't create energy reserves. But government policies can depress production and keep drilling rigs idle. When these policies go wrong, as they have to an awesome extent, it's easy and popular to shift the blame to the refiner unwilling to produce unleaded gasoline at a loss or the wildcatter so confused by new natural gas legislation that he suspends drilling.

But even these scapegoats may not be enough. Say President Carter raises $140 billion to develop uneconomic fuels through a "strong permanent windfall profits tax" on the supposed bonanza from a price decontrol which now seems indefinitely postponed. And suppose that through his "shuffling allocations," the gas lines and disruptions broaden. Then who will he blame for the grumbling and dissatisfaction?

Since Americans are not at all demoralized and corrupt, they will respond to President Carter's challenge with more enthusiasm than his policies deserve. Throughout history, the call to war has been the easy way to gain public support. But the public has the right to demand that the war strategy be sound, that the generals know their business, and that they are fighting the right enemies. When the first flush of support dies down, it will become clear that President Carter's strategy for energy war will produce disasters that no amount of demagogy can conceal.

THE CARTER SPEECH: NOTHING NEW . . .

(By Lindley H. Clark, Jr.)

Jimmy Carter was clear and forceful. There were none of those odd pauses in the middle of sentences, none of the hesitancy that has marred other presentations. It was, without doubt, his best television performance.

It's too bad he found nothing worthwhile to say.

On Sunday night he told the nation that its economic and energy problems were the fault of the Organization of Petroleum Exporting Countries. "This," he said, with a perfectly straight face, "is the direct cause of the long lines that have made millions of you spend aggravating hours waiting for gasoline. It's a cause of the increased inflation and unemployment that we now face."

He didn't explain how OPEC could so neatly have arranged for gasoline lines in New York and Washington and none in the Midwest. There was no hint that a congressionally mandated allocations system could have played a part in the mess. Nor did

Mr. Carter suggest that big budget deficits and expansive monetary policy could have had something to do with the inflation.

Instead he urged more government to attack the problems fundamentally caused by too much government. It was ever thus.

Last week I talked with William E. Simon, who served as Treasury Secretary from 1974 to 1977 and before that spent several uneasy months in the midst of Energy Crisis I.

Mr. Simon set down his thoughts on energy in his best-selling book "A Time for Truth" (Reader's Digest Press). He feels that matters were badly mishandled under a Republican administration and that things haven't gotten any better under Mr. Carter.

LOSS OF CONFIDENCE

"This fellow in the White House is a bigger disaster than even his worst detractors said," Mr. Simon commented. "He has lost confidence in himself. Travelling around the world, talking with former colleagues, government officials and businessmen, it's embarrassing. This man is held in contempt."

Mr. Simon's energy plan is simple enough: "The U.S. is blessed with a superabundance of natural resources and technology. We should use that technology to achieve energy self-sufficiency. We should exercise the leadership that would persuade OPEC to moderate its prices. All the pieces are there; the only reason the right things aren't done is politics."

The former Treasury Secretary would like to see the Energy Department abolished, but he isn't optimistic. In his book he recalls the time when the Federal Energy Administration, the ancestor of the Energy Department, was scheduled to go out of existence. A newspaper reporter called him at the Treasury and asked what he thought of extending the life of the FEA:

"I exclaimed, 'Extend its life! That place is a menace. It's strangling the energy industry at the very time when we need production. It should be wiped out of existence.' . . . But that day I learned that President Ford had already decided to extend the life of this bureaucratic abortion."

Republicans tend to oppose regulation firmly—unless they're doing the regulating. What they forget, Mr. Simon warns, is that Republicans go out of office and their sins sometimes linger on behind them.

One Republican sin that didn't get anywhere, fortunately, was Nelson Rockefeller's $100 billion energy corporation that would have lent money to private industry to develop new fuel technologies. Mr. Carter's energy subsidy scheme differs from the Rockefeller-Ford boondoggle in detail but not in substance, so Mr. Simon's comments on the earlier incarnation are appropriate:

"Even with taxation and inflation set aside," he wrote, "there is no conceivable justification for the government to subsidize a massive construction program for an industry that the same government has actively prevented from functioning. If the energy industries are simply freed from their regulatory bondage and are allowed to function sanely, they will pay for their own expansion out of their own profits.

"That is free enterprise, and in the entire history of mankind nothing has ever served better as a 'catalyst and stimulant' to invention and innovation than the profit system. That system will quickly bring about the increased production necessary for self-sufficiency. There is time, using fossil fuels alone, the resources yet to be discovered . . . and nuclear energy for the energy industries to devise synthetic fuels and new technologies like solar, geothermal and tidal energy."

Ralph Nader, the self-appointed consumer spokesman, found only one flaw in Mr. Carter's speech; no specific attack on nuclear energy. Nuclear power does entail risks, as the accident at Pennsylvania's Three Mile Island plant has emphasized.

"Three Mile Island hasn't changed the need for nuclear energy," Mr. Simon says. "Some people talk as though we should have a government that removes all risks. Nothing is risk-free, but we should minimize the risk." He calls for frequent inspections and safety checks.

ENERGY MOBILIZATION BOARD

One of the more touching aspects of Mr. Carter's speech was the proposal to create an energy mobilization board which "like the War Production Board in World War II," would have the responsibility and authority to "cut through red tape, the delay and the endless roadblocks to completing key energy projects."

The first question that sparks is whether Mr. Carter (or his writers) bothered to read the history of World War II and WPB. War production got rolling in spite of the WPB and its competing agencies, not because of them.

Donald Nelson, the Sears executive who headed WPB, tried hard to gear the nation for war. But for some time he was still surrounded by conflicting agencies. He found it impossible to strictly control priorities or to prevent expansion of production in unneeded directions.

The second question is whether Mr. Carter or anyone else considered the fact that the best way to deal with the red tape and delays would be to eliminate or drastically cut the governmental regulations that are the root of the problem. That would free a few regulators (and an entire energy mobilization board) for more productive tasks.

In Washington, of course, things don't work that way. As Mr. Simon says, "People spend hours down there figuring out the best way for the government to do things that it shouldn't be doing in the first place. The regulator system has gotten completely out of control. No matter how well-intentioned the administration may be, it won't be able to persuade the regulators to behave any differently."

All in all, it seems that 10 days on the mountain at Camp David did not produce much. The New York Times noted that one of the television programs canceled for the Sunday night speech was an episode of "Moses the Lawgiver" in which Moses comes down from the mountain with the Ten Commandments.

Mr. Carter is out of his league.

. . . AND A MISLEADING OF THE NATION'S 'SOUL'

(By Roger Ricklefs)

Dear President Carter:

That was a remarkable speech Sunday night, but I wonder if you're missing the point, Mr. President, we're not out of confidence, we're out of gas.

You have taken a hard and long look at a national problem and found exactly what one might expect of a man who doesn't actually sit in gas lines himself—a spiritual crisis. But it that what is really happening?

You say that the gap beween the citizens and Washington has never been so wide, and perhaps you are right. But now you have taken this a step further and defined the country's energy problem not merely in Washington's terms, but in your own.

You roam America in your Boeing 707 and helicopter seeking insight into the nation's soul. But all the while, the voter wanders America in his Chevrolet Impala seeking only a green flag and a little unleaded.

You asked in your speech, "Why have we not been able to get together as a nation to resolve our serious energy problem?" Perhaps the reason is that almost nobody sees this as quite the religious crusade that it seems to you. You may tie it all in with the decline of the family and self-indulgence, but to many of us, it has more to do with prosaic old supply and demand. Obviously, the energy crisis is a critical problem, but it's a problem to be solved, the stuff of normal life rather than a symptom of spiritual crisis. Perhaps we can say it is the moral equivalent of some wars, but it somehow doesn't measure up to Iwo Jima and Guadalcanal.

A Southern governor you quote told you, "Mr. President, you're not leading this nation, you're managing the government." The fact is, though, that an awfully big crowd of non-governors would happily settle for a little more effective managing of the government.

This isn't because people like to think small, but because they suspect your broader leadership might address problems that are a bit overblown in your mind and not quite central to their lives.

For instance, you worry that we are losing our confidence as a nation, and undoubtedly there is a fair bit of truth here. But perhaps what we've mainly lost is our *overconfidence*. The "confidence" of the 1960s that we have lost is what made smart people pay 40 times earnings for "concept" stocks and delude themselves that we could never lose a war.

Perhaps people today feel that the unusual combination of happy circumstances in the year after World War II, including ludicrously cheap energy, is ending. Today, people see that there are limits. They've learned that you never really solve your problems; at best, you only trade them in for problems you like better. Some goals you achieve, while others you don't quite meet. But is this a spiritual crisis or simply a rational adjustment to reality?

What is happening is that we increasingly realize we are in the same boat as other countries. For instance, much is made of our growing dependence on foreign oil as some sort of sign of national collapse. Certainly, most of us are willing to sacrifice to reduce this dependence, as well we should.

But let us keep this in perspective. These days, ironically, a degree of dependence goes hand in hand with a high standard of living. Before two car families came into vogue, this country exported oil. But everybody else is in the same situation. If Russians are willing to eat potatos and cabbage, they don't need us for grain. But if the Soviet leaders want to put meat on the dinner tables of Leningrad and Minsk, they will have to get the grain to feed the cattle from us, their most powerful adversary.

While we depend on Saudi Arabia for oil, that underpopulated vast nation, surrounded by hostile states, depends on us for military security. We must import some of our oil, but Japan must import it all. Without trade, Britain goes hungry. Yet people adjust. Britain may strive to improve its agriculture, but it doesn't feel a spiritual collapse just because oranges don't grow there.

But what seemed the most far-fetched was your effort to link the energy crisis to the decline of the "strong families, close-knit communities and faith in God" of yesteryear. Mr. President, in the real world, the main connection between declining gasoline supplies and rising divorce rates is that a divorced couple is more likely to own two cars. One person may spend the weekend in church while another spends it in a disco. It's hard to tell which contributes more to the energy crisis.

If millions of people aren't living the way you would like, perhaps it is because they don't want to. Grandma hasn't moved out of the family homestead because she is suffering from a spiritual collapse. She's done it because nowadays she can afford her own pad.

Mr. President, a great many of us respect your religious and social views even if we don't subscribe to them ourselves. Some peo-

ple may look to you for spiritual awakening. But more people look to you for heating oil.

One of the great joys of living in countries like ours is that people can live their lives as they see fit without taking their cues from the leader's social and religious views. Some people like to party, and some people like to teach Sunday school. What nobody likes is setting the thermostat at 78 degrees.●

THE DEVELOPMENT OF THE PORT OF PORTLAND

● Mr. HATFIELD. Mr. President I would like to call the attention of the Senate to the further development of the Port of Portland through the locally funded $84 million Swan Island Ship Repair Yard expansion program. This project is an excellent example of what can be accomplished when private and public enterprise, with support from public citizens, work together.

On May 19, 1979, 20,000 Portland area citizens helped the Port of Portland dedicate its $84 million ship repair yard expansion program. The event was billed as "People's Day" because the program was made possible by tri-county citizens without Federal assistance. The dedication was the featured attraction of Oregon's celebration of National Transportation Week.

In his dedicatory remarks, Mr. Ken Lewis, president of the Port Commission, said:

And we have the future with us today in all the boys and girls and young men and women who have joined us for the celebration. We're especially pleased you're here because we want you, your youth, to share our plans until the day when you can help this community shape them. You are the future of Oregon, and we want you to know what we're doing here.

Lewis announced that the $84 million bond issue which the greater Portland area citizens had approved in 1976 to fund the expansion would be off the tax rolls next November, 3 years ahead of schedule:

And let me tell you, that's a real cause for celebration. At a time when our people are skeptical of cost overruns—we are proud of our cost underrun.

Under the expansion project, the port's 982-foot floating dry dock 4 was constructed. Dry dock 4 is the largest floating dry dock on the west coast. This project also provides the port with six huge whirley cranes, a 3,000-foot finger pier and outfitting berths to serve the new dry dock. A $4.6 million ballast water treatment plant, capable of pumping 1,000 barrels an hour and storing 156,000 barrels, was constructed under the project. The treatment plant turns ships' oily waste into purified water, that is returned to the river, and reclaims oil which is sold.

These public facilities are rented by three ship repair companies:

Northwest Marine Iron Works; Dillingham Ship Repair; and Willamette Iron & Steel Co. The companies are aided by the Port of Portland with advertising and targeted direct mail marketing programs to ship owners and others in the trade. But the private companies must bid the ship repair jobs. It is anticipated that the new facilities will increase Portland's share of the west coast ship repair market from about 30 to 50 percent.

The public facilities were completed at a cost of $64 million, approximately $20 million under the proposed budget. The reasons attributed to the savings are threefold: low bids; bond monies had been wisely invested and had earned additional money; and ship repair business was following the port feasibility study. The $20 million dollars are placed in a debt service reserve fund composed of 30 year bonds which will be used to cover the facilities upkeep.●

PRESIDENTIAL STUDY OF THE MANPOWER NEEDS OF THE ARMED FORCES

● Mr. DOLE. Mr. President, on June 18 I introduced a bill, S. 1354, calling for a presidential study of the military manpower needs of the Armed Forces. This bill directs the President to report to the Congress within 120 days of its enactment the following:

First. The current ability of the Selective Service to provide the personnel needed by the Armed Forces in the event of a national emergency.

Second. The capability of the Armed Forces to provide the training, housing, equipment, and so forth, required in a national emergency.

Third. Recommendations on legislation deemed necessary to provide the United States with an adequate and effective mobilization capability.

Last Thursday the Washington Post contained an excellent piece by Martin Binkin, senior fellow in the foreign policy studies program at the Brookings Institution, advising that the Congress proceed with caution on the issue of draft registration.

Mr. President, I request that Mr. Binkin's remarks be printed in the RECORD following my own.

The remarks follow:

PEACETIME REGISTRATION: PROCEED WITH CAUTION

(By Martin Binkin)

The military registration debate is reaching the floors of Congress. On the House side, a proposal tacked onto the defense authorization bill would require the president to begin registration of 18-year-old males in January 1981. In the Senate, the Armed Services Committee proposes the registration of males 18 through 26 to begin no later than January 1980.

Thus far, the issue has been inappropriately linked to the question of whether or not the volunteer army is working. This has happened largely because the strongest advocates for peacetime registration and the sharpest critics of volunteer forces are one and the same. As a result, many oppose registration for fear that it is but a first step in a conspiracy to return to the draft. It is important the Congress move out of the line of this emotional cross fire and consider the issue on its merits.

Registration was terminated by President Ford in 1975, a decision taken largely in the interest of economy but no doubt influenced by the view that a conventional war would not last long enough for mobilization to matter and, even if it did, reservists could fill the breach until the Selective Service System could be reconstituted and begin to deliver fresh recruits.

But a recent reassessment of the demands of an intense conventional conflict coupled with problems in manning the reserve forces have raised fears that the U.S. Army would run short of combat troops should the forces of NATO and the Warsaw Pack square off in a replay of World War II. As matters stand, the nation's Selective Service machinery, which is now "deep standby," could not deliver the first inductees to Army boot camps until some 110 days after a decision to mobilize. Allowing for training and travel, this would mean that the first replacements would not reach the battlefield until at least 200 days after mobilization, which many now consider to be too late to make a difference.

The Carter administration wants to speed up the process; as a first step, it has proposed increased funding for fiscal year 1979 and 1980 to improve the computer capabilities of Selective Service and to increase the size of its full-time staff from about 100 to 150. The administration contends that its modernized system would ultimately be able to deliver the first recruits within 30 days, in which case combat replacements would be available as early as 115 days after mobilization—considered by the Pentagon to be soon enough to fill out new units and replace combat casualties. Moreover—and this is important—the administration claims that this schedule would be met *without* preregistration.

But not everyone agrees. Critics question the feasibility of meeting such a tight schedule, even by a streamlined system. They discount the prospects for registering up to 6 million youths, storing the data on computers at regional sites, notifying inductees to report, giving physical examinations and beginning actual inductions—all within 30 days. Instead, they argue, peacetime registration would give Selective Service a leg up, virtually ensuring that the 30-day timetable could be met, with some proponents claiming that inductions could start within 12 days.

To resolve the issue, Congress should address two questions: To what extent is an enhanced mobilization capability necessary to the nation's security? Is peacetime registration necessary to achieve it?

To answer the first, Congress will have to sort out conflicting testimony of expert witnesses who have expressed widely divergent views of the number of troops that would have to be mustered in an emergency, how soon they would be needed and how best to raise them. Much depends on the validity of assumptions regarding the amount of warning time before hostilities commence, the duration and intensity of conflict, casualty rates and other factors over which there is wide disagreement. Whether the military could train, equip and deploy large numbers of recruits even if they were available is also open to question.

Should analysis lead to the conclusion that an accelerated induction schedule is a good idea, it is still far from clear that peacetime registration is necessary to accomplish it. Claims that the administration's proposed improvements will be enough to revise the Selective Service System should invite a healthy measure of skepticism, but so too should the claims that a failure to endorse peace time registration would pose an undue risk to U.S. national security.

This is all to say that too many questions are unanswered and, until they are fully revolved, reinstituting peacetime registration—an act that would be sure to reopen old wounds—would be premature. Indeed, the debate should not proceed to a legislative conclusion on the basis of the incomplete, conflicting and often emotional arguments presented so far.

Rather, it would seem prudent for Congress to go along with proposals to beef up Selective Service, which needs to be done in any event, and give the administration some

time to iron out the technical problems that are bothering the skeptics. In the meantime, Congress should press the White House for a comprehensive, coordinated and coherent standby draft policy and legislative proposals to underpin it. This will also give all parties time to do their home work on other critical questions that have been left hanging: Should women register? What form should registration take? Face-to-face at draft boards? By postcard mail-in? Or passively, by tapping existing government files? How is compliance to be enforced and what penalties will be imposed for failure to comply?

Once answers are in hand, Congress will be in a better position to make the rational and careful analysis that an issue with such important social and national-security implications deserves.●

MUSKIE-BAKER AMENDMENT TO THE EXPORT ADMINISTRATION ACT

● Mr. COHEN. Mr. President, on Saturday, the Senate considered the Muskie-Baker amendment to the Export Administration Act of 1979. I want to express my regret that, as a cosponsor of the amendment, I was unable to be here to take part in the debate on this measure.

As it happened, I had an engagement of long-standing in my home State, a commitment I felt bound to honor. I had discussed this situation with my colleagues in the hope that the measure could be carried over until Monday. Indeed, when I left for Maine, I did so fully expecting that the Muskie-Baker amendment would be delayed until today. Apparently, however, the distinguished managers of the amendment felt that conditions warranted going forward with consideration of the amendment on Saturday. I certainly respect this judgment; my only regret is that I was unable to be here to vote in favor of this important measure.

This amendment was a reasonable solution to an otherwise intractable problem which threatens the entire American leather industry. The circumstances which prompted the amendment are familiar to us all. For more than a year, hide prices have been spiralling beyond reason. The dramatic rise in prices has been caused by many factors, but two are salient. The first is the unprecedented increase in world demands for hides. Foreign purchasers are buying hides in great numbers and consequently reducing the number of hides available for domestic consumption. So great has been the demand that it is estimated our native leather industry will be left with only half the hides it normally requires to operate.

Second, all other major hide producers, such as Brazil and Argentina, severely restrict the export of their hides. Those countries prefer to keep their hides at home and protect those industries which are dependent on them. These restrictions have resulted in the anomolous situation of the United States, which produces about 15 percent of the world's hides, accounting for more than 75 percent of the world's market. In March, April, and May of this year, an astonishing 83 percent of our domestic hides were sent abroad, leaving the American leather industry to make do with the meager remains.

Caught between rocketing hides prices and dwindling availability of hides, the American leather industry has been forced to cut back its operations drastically. In Maine alone hundreds of workers have been laid off, many more are working shortened hours, and all fear for their jobs.

The amendment which the Senate considered on Saturday was not, as was asserted, against free trade. It was, rather, a move to restore fair trade to the international hide market. It was not the blanket prohibition against hide exports that other hide-producing countries have enacted. It merely set a limit—a temporary limit on the number of hides which may be exported to insure that sufficient supplies are available to our domestic leather industry. The question which the amendment posed, then, was quite simple. It was whether we were willing to risk the permanent loss of an industry which provides over 400,000 jobs nationwide to preserve a passing condition of the international marketplace.

I intend to continue to work closely with the distinguished Senator from Maine and the distinguished Senator from Tennessee in the effort to secure passage of legislation to control the export of American hides to protect the industry and American jobs.●

THE 50TH ANNIVERSARY OF THE INAUGURATION OF HERBERT HOOVER TO BE THE 31ST PRESIDENT OF THE UNITED STATES

● Mr. HATFIELD. Mr. President, Herbert Hoover remained a controversial figure long after his Presidency ended in March 1933. He was active in party politics for several years and, in fact, sought the Republican Presidential nomination in 1936. His ambition to regain the Presidency and his harsh and outspoken criticism of President Roosevelt's domestic and foreign policies, made him an unpopular man in many circles. It was not until the United States entered World War II that he began to come within the public's good graces again, and his role began to be viewed as a constructive one.

Donald R. McCoy, distinguished professor of history at the University of Kansas, has written an essay entitled "Herbert Hoover and Foreign Policy, 1939–1945," which discusses Hoover's foreign policy views, recommendations, and influence in that period when he turned the corner to acceptability again. I submit the essay, Mr. President, as part of a series of essays I received, to commemorate the fiftieth anniversary of the inauguration of Hoover in 1929 as our 31st President.

In the 3 years preceding the attack on Pearl Harbor, Hoover assaulted the foreign policies of President Roosevelt, which in his view were leading the United States into the war, step by step. In 1939, he labeled that conflict in Europe a "senseless war," and argued that this country should stay out of it. He saw the United States, undamaged by war, as the only force which could "from our strength heal many wounds of war. We can aid the starving, succor the distressed and care for the innocent."

He continued his opposition to the U.S. involvement in the war through the June 1941 Nazi attack on Russia. He argued that if the United States entered the war "and we win, then we have won for Stalin the grip of communism on Russia and more opportunity for it to extend in the world." He also antagonized the British Government by pressing a plan to aid the 30,000,000 people in the conquered European nations who were threatened with famine. Churchill feared the Axis powers would only use the aid to their own advantage.

All of this changed with the entry of the United States into the war after the attack on Pearl Harbor. For the sake of national unity, Hoover adopted the high road in setting forth his proposals, and the resulting perception of him as an elder statesman was to remain with him throughout the rest of his lifetime. Nearing 70, Hoover continued to actively comment and propose, concentrating on the problems of a postwar world, and ideas which he felt could lead to a lasting peace. Professor McCoy details these ideas in his fine essay.

Mr. President, I request that Professor McCoy's essay, and a brief biographical sketch of the author, be printed in the RECORD at the conclusion of my remarks.

The material follows:

BIOGRAPHIC SKETCH OF DONALD R. MCCOY

EDUCATION

BA, University of Denver, 1949, MA, University of Chicago Ph. D. (Hist.), American University, 1954.

PROFESSIONAL EXPERIENCE

Archivist, National Archives, 1951–52; Instructor to Associate Professor of History, State University of New York College, 1952–57; Assistant Professor to Professor, 1957–75, University Distinguished Professor of History, University of Kansas, 1974–.

PUBLICATIONS

Angry Voices: Left-of-Center Movements in the New Deal Era, University of Kansas, 1958; Co-author, Readings in 20th Century American History, Macmillan, 1963; Landon of Kansas, University of Nebraska, 1966; Calvin Coolidge: The Quiet President, Macmillan, 1967; Coming of Age: America During the 1920s and 1930s, Penguin, 1973; Co-author, Quest and Response: Minority Rights and the Truman Administration, University of Kansas, 1973.

HERBERT HOOVER AND FOREIGN POLICY, 1939–1945

(By Donald R. McCoy)

When Herbert Hoover left the White House in March 1933, he left as American's scapegoat for the coming of the greatest economic crisis in its history. Not only did Democrats and other opposition groups condemn him politically, but he was discredited even among large numbers of his fellow Republicans. Not until World War II would his name generally stand for anything except economic depression and political reaction. This situation stemmed only in part from his inability as President to turn the tide of depression and to provide adequate relief to needy Americans. It was aggravated by the eagerness of many Democrats to wage

oratorical battle against him and by the struggle by many Republicans to keep him from power in their party. Moreover, Hoover himself refused to let memories fade, as his outspokenness, often bitter, invited continued severe criticism. Repeatedly, the former President lashed out at the Franklin D. Roosevelt Administration. Constantly, he defended the record and ideas of his own administration. Hoover's manipulatory efforts to gain renomination for President in 1936 was taken as a proclamation that he alone was fully qualified to determine the Republican party's and the nation's policies. Then too, his extremist contributions to the Republican election campaign that year and his struggle during the next several years against the 1936 presidential nominee, Alfred M. Landon, for leadership of the party created new controversies among Republicans.

By 1939 Hoover seemed to have confirmed the worst that his vast range of adversaries said of him. There were few who called him "Chief," and many of them were hailing him as much out of fear of his tongue as from respect for his qualities. Yet, he would live to see himself often honored as an outstanding American by Democrats as well as Republicans. The beginning of this change was to come during World War II, and the bases for it then were his activities and developing thought in the area of foreign policy and the fact that, as a former President, Hoover could not be ignored.

His reaction to the start of the war in Europe was founded upon ideas he had long held. On September 1, 1939, Hoover told a national radio audience that this was a "senseless war" which would lead to the slaughter and starvation of millions of people. Because he thought that England and France could defend themselves and that the United States was unable to solve the problems of Europe, he declared that "America must keep out of this war." Thereby the nation could preserve its "vitality and strength" for the encouragement of democracy and freedom abroad after the war. In the weeks to come, the former President supplemented this basic message. He extended his heartfelt sympathy to Poland after its partition by German and Russian aggressors, saying "Poland will not die." On October 16, he told the press that the United States should permit the sale abroad of defensive weapons, such as anti-aircraft guns and pursuit planes.

Also by October Hoover had formulated a five-point program for the United States that could ensure it would not be dragged into the war and would be in a position to help mankind in the future. As he wrote in the Saturday Evening Post:

"First. We can strengthen our Army and Navy to a point where no soldier dare land on the Western Hemisphere. . . .

"Second. We can put our own house in order. We can demonstrate that self-governing, free people can solve the problems imposed by the industrial revolution. . . .

"Third. We can thus make a demonstration on this continent that true liberalism is not dead. . . . We can prove that the hope of humanity lies not in killing or regimenting men but in preserving them and in enlarging their lives.

"Fourth. We can from our strength again heal many wounds of war. We can aid the starving, succor the distressed, and care for the innocent.

"Fifth. We can aid those who sit at the peace table, not by entanglement but by counsel to mitigate malignance. We can, as President Wilson did in 1919, secure some justice, some freedom, some hope to the world."

The implications of this program for an understanding of Hoover are tremendous. Although Woodrow Wilson had obivously influenced him, it was also plain that Hoover had developed reservations that Americans had to learn to live with "obnoxious" ideologies elsewhere, even in Germany and Russia, and that the United States, for all its resources, could contribute only a "small portion to the salvation of mankind." Yet, if that was a reflection of what he considered realism, his idealism was unfettered that Americans could, within their own land, solve the problems brought by the industrial revolution. There was also the clear suggestion of what would a decade later be called "Fortress America" as a way to keep the nation from becoming an aggressor and from being invaded. Moreover, there was the reemergence of Hoover as a humanitarian. Altogether these ideas commanded a sympathetic audience in 1939 and 1940, for few Americans then wanted to go to war, while almost all of them wanted to be of some assistance to agonized Europe.

These themes dominated Hoover's thinking and action on foreign policy until the Japanese attack on Pearl Harbor. Yet, his rise to political respectability was limited. This was partly because he once more sought the Republican nomination for President. Again his ways were shadowy, and the very fact that he considered himself a candidate in 1940 was enough to raise old issues and fears against himself. Through Herbert W. Clark he worked to control the California delegation; he also hired Ross Lee Laird to campaign elsewhere in the West of uninstructed delegates. Hoover was not openly proclaimed as a candidate for the Republican nomination. The fact, however, that his aides mentioned all other contenders slightingly and that they often wrote of who favored Hoover, leaves the unescapable conclusion that he thirsted for the nomination and for reoccupancy of the White House. Of course, he was denied. If Hoover and his small band of loyalists could not understand that he was still anathema to the majority of Americans, the delegates to the 1940 Republican National Convention did.

Hoover's participation in the 1940 election campaign was not as jarring as it had been four years earlier. If he offended few Republicans, however, many independents and most Democrats saw him as being the same old Hoover. This was largely because of his harsh criticism of the New Deal. Among other things, he excoriated it for "stabilizing depression," "stirring class hate," "a sinister build-up of personal power in this Republic," and "a pronounced odor of totalitarian government." He had the right to say it, but for his own sake he was the wrong man to do so. His comments on foreign policy during most of the campaign were, however, another matter. Condemnation of the Soviet Union, especially for its invasions of Poland and Finland, and the calls to keep out of war and to intensify defense preparations were in fashion among Americans in 1940. Hoover's criticism of the Roosevelt Administration regarding foreign affairs did little to tarnish whatever respectability he had gained. Yet, he would soon again became a national ogre par excellence, even in his area of discussion.

Perhaps Hoover's recasting as one of America's prime political scapegoats was connected with the tactics he used in his fight to provide relief to war-stricken peoples. He had been, of course, the outstanding figure in war relief work during and immediately after World War I. Therefore, it is understandable that ravaged countries looked to him to perform similar services during the Second World War. The appeals arrived quickly, first from Poland, then from Finland, the Low Countries, and Norway. Hoover's first action was to ask the American Red Cross to assume the task of war relief, so that there would be a single coordinated management of it by an established organization. The Red Cross, however, decided to restrict itself to rendering medical aid, so Hoover and his comrades in the old American Relief Administration took up the burden of general assistance through a series of interrelated organizations. Using funds raised in the United States and those provided by governments in exile, they did a substantial job at first in providing food and clothing to those in need.

The tide turned, however, a few months after Winston Churchill was elevated to the prime ministership in Great Britain. Churchill announced on August 20, 1940, that his government could not risk the possibility the Axis powers would use relief materials to their own advantage in the war. Therefore, the British tightened their blockade of Europe, which brought war relief efforts almost to a standstill. This led to a series of negotiations between Hoover's relief forces and the British government and its supporters in the United States. Initially, Hoover and his associates refrained from answering Churchill's August 20 statement, for fear that their response would be taken as a part of American election campaign politics. The attacks on the war relief group, however, became so heavy that the former President decided he had to say something. On October 6 he stated that no one among the war relief advocates wanted to hurt the British cause or to deplete American resources. Their goal was to find a way acceptable to all concerned, including the British government, that would permit the provision of relief to the 30,000,000 people in conquered nations who were threatened with famine. This reasonable statement only led to increased vituperation against Hoover and his associates, who themselves occasionally became immoderate in return. This struggle continued until the Japanese attack on Pearl Harbor, when the war relief forces concluded that they stood no chance of success in changing the minds of officials who wanted a complete blockade of enemy and enemy-occupied lands.

If Herbert Hoover's comments on domestic matters in 1940 and possibly his work on behalf of war relief kept him from returning completely from the gray areas of American politics, his strident remarks between October 1940 and December 1941 on general foreign policy thrust him completely from the realm of respectability as far as many Americans were concerned. It was because of this that he would get the reputation of being a so-called isolationist. The kick-off for this was his speech in Lincoln, Nebraska, October 31, 1940. In his foreign policy statements over the years, he had rarely criticized Franklin D. Roosevelt publicly. Now that changed as Hoover assailed the President for inadequate national defense preparations, for engaging in power politics, and for "creating war psychosis and hysteria." He summarized Roosevelt's record as containing "hardly one act which has substantially contributed to our peace with the world. There are hundreds of acts which tend to drag us toward this war." He declared that the engagement of the United States in the war would not only impair the nation's ability later on to bind up wounds and to promote democracy abroad, but would result in creating a "dictatorship at home."

President Roosevelt's request to Congress in January for unlimited authority to lend or to lease materials to peoples resisting Nazi aggression triggered the intense foreign policy debate of 1941 in the United States. Hoover joined with men and women from a variety of political groups to oppose this proposition. He saw no reason for Congress to abdicate its powers to the President; this had not been done in 1917–1918, nor had anything like it happened in besieged Britain in either of the two world wars. Although he favored extending substantial aid to the British, he urged the lawmakers to respond to Roosevelt's plan by drafting "in to the bill

positive definitions of what [lend-lease] powers are and [to] specifically exclude what they are not." Such restrictions would permit effective assistance to Great Britain without risking the possibility that the President would undercut America's defense preparations, invite "much controversy and bitterness" at home, and even plunge the nation into war.

Congress did not heed Hoover and the other opponents of lend-lease, for in March 1941 it enacted legislation which included unprecedented powers for the chief executive. As the former President had predicted, one of the results was extreme controversy. The attacks of government officials on anti-interventionists as well as the refusal of authorities in some cities to permit critics of President Roosevelt to speak at public meetings were viewed by many as an attempt to gag freedom of speech. Republicans scored Roosevelt's foxiness in discussing foreign policy issues and his reluctance to act through Congress. They also charged that the administration was failing to develop adequate defenses for the country and was mismanaging whatever preparations were being made. Most important, however, was their belief that the administration was edging the nation into a position where it would have to fight.

Hoover was deeply involved in these bitter controveries, and while his activities raised the darkest suspicions of the President's supporters towards him, they did allow him to make or renew friendships with many who had drifted away from Roosevelt. Although Hoover usually acted by himself in opposing the administration, he spoke, quite vigorously, what the sizable number of Roosevelt's critics thought. In addition, the former President encouraged the America First Committee, one of the most extreme of Roosevelt's opponents. Although Hoover repeatedly endorsed giving aid to Britain, he condemned the folly of hysterically urging the need to go to war against ideological enemies. Wisdom indicated instead that every effort should be made to keep America out of war, for the nation was "the only remaining sanctuary of freedom, the last oasis of civilization and the last reserve of moral and economic strength."

Hoover, however, had no "expectation," as he told one associate, "of stopping the American people from going to war or to stop them from making a mess out of peace. . . . I am, however, going to die with my conscience alive." Indeed, as he wrote former Agriculture Secretary Arthur M. Hyde, he anticipated that America would be "into the shooting stage" by July. He added, "we are backing into this war through a series of intellectual dishonesties. But so long as the people like to be fooled . . . I do not see what an isolated voice in the wilderness can do."

His voice, however, was not stilled. After Russia came into the war in June 1941, he argued in an address that if America joined the Allies "and we win, then we have won for Stalin the grip of Communism on Russia and more opportunity for it to extend in the world. We should at least cease to tell our sons that they would be giving their lives to restore democracy and freedom to the world." Hoover soon went one step further, joining with his erstwhile intraparty foe, Alfred M. Landon, and educators Robert M. Hutchins and Felix Morley in drafting an anti-war statement to be issued by worthies from various walks of life. The statement, which was released August 5, called upon Congress to "put a stop to step-by-step projection of the United States into undeclared war." It was asserted that the administration of the Lend-Lease Act had exceeded legislative intent, having been "followed by naval action, by military occupation of bases outside the Western Hemisphere, by promise of unauthorized aid to Russia and by other belligerent moves." The statement added, "The hope of civilization now rests primarily upon the preservation of freedom and democracy in the United States. That will be lost for a generation if we join in this war." Hoover and Landon and their associates hoped that some prominent Democrats, specifically Raymond Moley, Joseph P. Kennedy, and Harry Woodring, would sign the document, but, although they were interested, they finally decided against it. Thus, while the end product was signed by politicians, educators, writers, a businessman, an opera singer, and labor leader John L. Lewis, they were all Republicans. It indicated to Hoover, however, that he was now persona grata among an increasingly wide circle of Republicans.

By late July Hoover's spirits were rising, perhaps partly because of his participation in the arrangements for the joint statement. Certainly, as he wrote former Undersecretary of State William R. Castle, he was "amazed at the way American public opinion stands steadfast at 80% to 90% against our going into war." He felt buoyed to continue with his work, believing that "if we can keep from the actual shooting stage until the end of the year . . . we may keep safely out of this mess." And on he went, emphasizing, for example in one address, that the only genuinely American policy was to stop "calling names," to develop the defenses of the Western Hemisphere, to furnish military materials to embattled democracies and to "reserve our strength that unexhausted we may give real aid to reconstruction and stabilizing of peace when Hitler collapses of his own overreaching." This was the former President's most fervent hope, but it was not to be achieved.

When war came for the United States on December 7, Hoover was not surprised that it originated in the Pacific. He had at least since October 1940 been worried about inviting attack from that quarter. In September 1941, he commented to William R. Castle that administration leaders "are doing everything they can to get us into war through the Japanese back door." Of course, the day following the attack on Pearl Harbor the former President joined other prominent Americans in calling for national unity in fighting the war. He was certain, however, that his foreign policy position had been correct. As he wrote Castle, "this continuous putting pins in rattlesnakes finally got this country bitten . . . if Japan had been allowed to go on without these trade restrictions and provocations, she would have collapsed from internal economic reasons alone within a couple of years." He added darkly, "We also know the processes by which this debacle has been brought about." There was little that could be done about it now, but he proposed that there should be a documentary account of this in the future, so that all would know how the United States was taken to war.

Nevertheless, Hoover quickly concluded that the coming of war changed the rules of domestic political discussion. He could no longer act as a sovereign entity in seeking his goals, nor could he afford to accentuate controversiality in his public statements. For the sake of effectiveness, his emphasis had to be on positive thinking and conciliatory expression. As he wrote to a friend on December 21, America would have to establish "a Fascist government with a few trimmings of lip service to liberty, if we are going to win the war. The real problem is how to organize it so that after the war we can have a chance to come back." Overstatement that this was, he recognized that victory was essential to salvaging the libertarian principles and peaceful humanitarianism that he identified with his country and its people. These were high stakes, and the former President was determined to act in a way that would allow him some influence in shaping the peace.

Other Republicans would fight on many political fronts during the war in order to secure the continuation of two-party elections, to wrest information from the administration, and to combat charges that they were "isolationists" and "reactionaries" and therefore responsible for everything that had gone wrong with America and the world. Hoover chose, for the most part, to stick to the high ground and let his fellow partisans handle the day-to-day politicking. It was this assumption of the role of elder statesman that was the big change in his life and ultimately in the country's perception of him. His initial venture in this direction, the book "America's First Crusade," had been launched before Pearl Harbor, but it was published in January 1942. This brief account of the nation's experience with peacemaking after World War I was a realistic and sympathetic appraisal of what Woodrow Wilson and American idealism had encountered. It was not overtly critical of either Roosevelt or Churchill or their stated war aims. Hoover's message was simply that the United States would have to act more wisely the next time it sought to transform its ideals "into concrete action at a peace table." Now was the time, he urged, to prepare for that and to draw on the "valuable experience" of President Wilson.

During the six months after Pearl Harbor, Hoover occasionally busied himself with delivering statements on national-unity and win-the-war themes. His chief endeavor, however, was to set forth his ideas about a foreign policy that could achieve an enduring, realistic peace. His collaborator in this as in so many other things was Hugh Gibson, the veteran diplomatist. The landmark result of their work was a volume running some 300 pages and entitled "The Problems of Lasting Peace." Working constantly through the winter and spring of 1942, Hoover and Gibson sent the last of the final draft to the publisher on May 1. The publication of the book received priority attention and the first printing was dated May 25.

"The Problems of Lasting Peace" set fifty policy goals for the United States, including international organization for peace, world economic freedom and cooperation, self-determination of nations, and minimization of reparations and intergovernmental debts. The book had considerable impact. It went through ten printings in eight months, and offprints from and condensations of it were widely distributed. The Hoover-Gibson volume must be given considerable credit for setting the Republican party on the road to devising a timely foreign policy. Their work particularly influenced the development of Republican agreement upon supporting some form of postwar world organization and widespread recognition in the party that each of the world's powers would have peace goals different from the others, which would have to be dealt with patiently and realistically. Clearly, another message of the book was that not only would Americans have to thrash out differences with other peoples but among themselves as well. This contributed to the increasing give-and-take among Republicans and Democrats during the war on questions of foreign policy.

One of the most ingenious ideas in The Problems of Lasting Peace was what Hoover and Gibson proposed to substitute for an armistice and a general peace conference. They asserted that the Allies should immediately agree upon machinery for peacemaking that would facilitate the resumption of normal political and economic life at the end of the war as well as encourage deliberate action and popular participation in solving the problems of peace. What they had in mind was, first, a "conditional" peace which would quickly orient the world toward reconstruction and, second, a "cooling off" period which would allow the nations to work

out their problems on realistic bases. In view of later developments, it is worth while listing what Hoover and Gibson thought should be the minimal goals of "conditional" peace. They were:

1. The instant surrender of arms and demobilization of all enemy military forces.

2. Repatriation of military prisoners and civil populations. . . .

3. The removal of all blockade measures against neutrals and liberated nations—and the removal of blockade against enemy areas the instant they have surrendered their arms and demobilized their forces.

4. Temporary restoration of pre-war commercial treaties pending general economic solution.

5. The designation of provisional boundaries of all states, liberated and enemy.

6. The immediate call of freely chosen elective constitutional assemblies or parliamentary bodies.

7. Immediate reduction of the armaments of the United Nations themselves to the minimum forces needed to maintain international order and to enforce ultimate peace provisions.

8. Acceptance by all liberated and enemy states of such future determinations as may affect these conditional arrangements.

9. Agreements by the liberated and enemy states to accept the machinery for the preservation of peace when it is settled.

In effect, a tenth point, one later formally added by Hoover, was to "Instantly provide credits for food and its transportation in order to stay famine and pestilence."

Although designed to be realistic, Hoover and Gibson's idea of an immediate "conditional" peace was not only idealistic in many particulars but was slanted toward settlements that many of the world's powers were wary of. Ironically, however, their path was trod in theory and often in practice of all points; time was also taken, despite the eventual happiness or bitterness with the consequences, to thrash out lasting settlements after the war. This is not to credit Hoover and Gibson with being the source of wisdom that led to that. Indeed, it came about largely because the Allies could not agree upon any other course and partly because American policy-makers were developing something akin to the Hoover-Gibson theory and were able to persuade their comrades-in-arms to accept some of it. Hoover did, of course, make a contribution to the public's thinking, but it must be emphasized that he drew on a common source—the Wilsonian ideals and experience—with President Roosevelt. Hoover especially sought to inject a measure of realism into Woodrow Wilson's idealism. The United States would learn, however, that its words would still be interpreted differently by other peoples, and thus Hoover's concept of finding "lasting peace" and freedom through multifarious and lengthy negotiations would prove far more difficult than he anticipated.

Of course, the former President had not abandoned his concern for feeding the peoples of war-stricken countries. In an article in Collier's magazine in late 1942 he declared: "A starving world must be fed after this war ends." The United States had to assume much of this burden, not only for humanitarian and religious reasons, but also because "Unless these masses of people in scores of nations can have food and be protected from pestilence there can be no social or political stability upon which peace can be built." He emphasized that the job, however immense, could not be confined to just allied and liberated nations in Europe, but would also have to include Russia and China and enemy countries as well. He urged that America give thought to organizing this now so that immediate action could be taken at the war's end.

By February 1943, Hoover and Hugh Gibson were arguing that since some food was being sent through the blockade to Nazi-occupied Greece, through a special Allied-German-Turkish arrangement, the time had to come to start relief activities elsewhere. They initially interpreted the appointment of former New York Governor Herbert Lehman, in November 1942, to organize American efforts for overseas reconstruction as a sign that this might be done. Yet, the Greek relief experience—for which Hoover and his associates could take some credit—was not to be repeated in any other occupied country even though the evidence indicated that it could succeed without jeopardizing anyone's war effort. The only positive result of the mounting pressure by Hoover and other advocates of large-scale war relief work was the provision of a small amount of assistance to the stricken in liberated Allied lands by the United Nations Relief and Rehabilitation Administration, which Lehman came to head.

The question of postwar international organization was meanwhile developing rapidly. In March 1943 the most internationalist Democrats and Republicans stepped up their campaign in that direction, aiming it at both their more conservative fellow partisans and the Roosevelt Administration. Harold Stassen of Minnesota led off with a renewal of his call for a world peace organization and an international army. That was soon followed, on March 16, by the introduction of a resolution by Senators Joseph Ball, Harold Burton, Carl Hatch, and Lister Hill asking for something similar and seeking the Senate's participation in peacemaking. This proposal by two Democratic and two Republican lawmakers disturbed equally the administration and the congressional leadership of both parties which did not want the issue forced so bluntly lest it lead to a struggle as bitter as that over the ratification of the Treaty of Versailles. To avoid this Representative J. William Fulbright, in June, offered a milder resolution, favoring international machinery to maintain a just peace. Out of this situation came the first serious form of consultation between Congress and the administration during the war. The result was that legislative leaders, Republicans included, now had access to previously restricted information and opportunities to make their views known to the administration. The impact was not monumental, but it did lead to Congress and Republicans having influence on America's postwar foreign policy.

Herbert Hoover played a key supporting role in all this, which was his intent, for he believed that "the problems of peace would be greater than [those of] war." To promote the formulation of "a real peace" he seldom publicly criticized the Roosevelt administration, the British, or even the Russians. Indeed, in March 1943, with Hugh Gibson, he went so far to praise Prime Minister Churchill's suggestion that there should be regional councils of nations to preserve the peace. The next month Hoover and Gibson incorporated the British leader's idea into their own proposed structure for enduring peace. The former President was also in touch with Senator Burton about planning for peace. Burton acknowledged Hoover's influence on him and asked for his reaction to the Ball-Burton-Hatch-Hill resolution. Hoover replied that the resolution's purpose was fine since the "Administration wishes to evade its responsibilities to the Congress and the Senate in making agreements with foreign nations." He then urged the Senator to strike a blow in the resolution for encouraging the formation of representative governments in other countries, the idea of a "conditional" peace, the restoration of sovereign rights to those lands that "have been forcibly deprived of them," and limiting membership in a peacekeeping organization to nations without territorial ambitions elsewhere. It was clear from this letter that although Hoover was an apostle of realism in foreign affairs, he also believed that the United States could not afford to be mute on its ideals. As he told Burton: "The purpose of these suggestions is to protect the Senate; to provide against such a debacle as we saw 24 years ago; and to make sure that these Resolutions are sufficiently explicit on certain American fundamentals."

However encouraging the former President was of Senator Burton's approach, he was worried as to what would happen as the United States became more interested in planning for peace. He wrote former Vice President Charles G. Dawes in April that "this country is about to go crazy on both the peace settlements and the post-war planning questions." Therefore, Hoover was declining most invitations to speak so he could devote himself almost wholly to promoting in other ways a sane approach to these issues. If some failed to hear him, it was not because he did not express himself. Indeed, he was highly active during 1943 in circulating his views through publications, radio talks, press statements, and widespread correspondence with prominent Republicans, some Democrats, and even Socialist leader Norman Thomas.

Hoover's stated ideas were generally reiterations and elaborations of what Hugh Gibson and he had written in "The Problems of Lasting Peace". The most important of these were that winning the peace would be more difficult than winning the war; that the prime goal should be lasting peace, not the wholesale transfer of the American way of life to other nations; that there should be no prior pledges on what the postwar settlements would be; that the United States must formulate specific goals for the postwar world; that, however, it must recognize that other nations would have aims different from America's; that therefore the postwar settlements would have to be thrashed out on a compromise basis, which would take time, knowledge, fortitude, and patience; and that the United States would have to assume great and long-range obligations to maintain the peace and foster reconstruction. Obviously, Hoover took a long view. He did not expect the lion to pull its teeth or the bear to pluck out its claws any more than he anticipated that the eagle would lose its beak. What he was trying to promote was a level of statesmanship and of public opinion that would permit the major powers quickly to recognize and implement the goals they had in common and then to sit down, for however long it took, to arrive at mutually acceptable compromises on other issues. He hoped this process would be conducted in such a way that none involved would believe its territorial, political, and economic security was threatened or that the advantages of war outweighed the rewards of peace. In all this he was willing to make conciliatory gestures, to Churchill regarding the regional councils, to Roosevelt regarding international conferences on food and monetary questions, and to even the Russians regarding postwar economic assistance. This attitude underscored his conviction that peacemaking and peacekeeping had to be cooperative, in the United States with all parties participating and without shortcutting the Constitution, in the world through the leadership of the three or four leading Allied nations and the participation of all nations in regional councils and ultimately in a world peace organization.

Again it should be stressed that Herbert Hoover was not America's guiding angel in the development of postwar foreign policy. His was, however, one of many influences that shaped that policy. As we have seen, by

spring and summer of 1943, Congress and the administration began giving serious consideration to the development of a postwar foreign policy. Congressional adoption of the Fulbright Resolution in September was accomplished in part because of the outspoken stands of Hoover, Landon, and the 1940 Republican presidential nominee, Wendell Willkie, in favor of postwar international organization. Indeed, their efforts helped smooth the way for support of a world peace organization by the Republican policy conference at Mackinac Island earlier in September, which in turn contributed to the adoption of the Fulbright Resolution by an overwhelming majority of representatives and senators. Although neither the conference nor the resolution was exactly what the former President wanted, he could take some pride that the United States was on record for postwar world organization with American participation charted to be according to "constitutional processes."

Hoover was aware, however, that the Fulbright Resolution was just the first step in the direction which he wanted the United States to travel. As he told his political associates, he felt more worried than triumphant. He saw the wartime difficulties among the major Allied powers as constituting "more of an international crisis than is generally known." He was bothered by what he considered the weaknesses of Franklin D. Roosevelt, writing that "If we do not watch out we will have some kind of white rabbit pulled out upon us that will jeopardize American life for at least half a century." And the former President was infuriated by the "great infleunce for evil" of Walter Lippman's recently published "United States Foreign Policy: Shield of the Republic." He viewed the book as supporting some form of political union with Great Britain, based as it was upon Lippman's "total distortion of American history," especially the idea that the British had been America's "friends and guardians over 120 years." Hoover also remained suspicious of the Soviet Union. He took some comfort, however, from the fact, as he saw it, that Joseph Stalin had speeded up the eventual return of Russia to nationalism and stability because the Soviet dictator had "telescoped the French Directory Period with Napoleon and is both of them."

Hoover's concern for converting nationalism into a positive force for world peace underlaid his public statements during the fall of 1943. Instead of a conditional peace, he now emphasized a "Transition Period" in which the major Allied powers would work out the bases for lasting peace and international organization. He thought that nationalism could be the guiding spirit in this, because enhancement of the possibility "that nations will maintain their full independence and their full sovereignty" should appeal as much to the Russians, for example, as to smaller nations. The Transition Period also had to be based upon an acceptance of "the fact that a period of disturbing years must inevitably elapse after * * * victory." In other words, he counseled, forget about an armistice, a quick general peace conference, military alliances, and the "premature formation" of a world peace organization. Instead, let America, Britain, Russia, and China issue a joint declaration of their peaceful purposes and continued cooperation during the initial postwar years—through negotiation and the recognition of legitimate national aims—for the purposes of organizing the world's peace. He considered this advice realistic in view of the dominating role of the major Allied powers toward the end of 1943.

During 1944 the former President's voice was not often heard. This was largely because of the death of his beloved wife, Lou Henry Hoover, early in January. When he did speak out, he continued travelling in the direction of being increasingly conciliatory. He viewed the U.S.S.R. as being more nationalistic than Communistic in the formulation of its foreign policy; he was not a candidate for nomination for President, nor did he try to influence the choice of the Republican nominee; and he took little participation in campaign politics. The result of this was that Hoover became a more creditable figure within the nation and especially his party. Therefore, while saying less, he was exercising more influence than he had since his years in the White House. None of this made him the "Grand Old Man" of American politics or even yet of the Republican party, but it was a step in that direction.

For Herbert Hoover, 1944 was a time of reflection for the further development of his ideas. When the fires stoked by the election campaigns had died down, he was ready for the last peace offensive. His public statements were aimed at avoiding partisan antagonism. For example, while other Republicans were beginning to criticize the Yalta agreement of 1945, Hoover told the press that "it comprises a strong foundation on which to rebuild the world." William R. Castle complained bitterly about this, but the former President wrote him that it was essential America's peace forces held together until after the war.

He used the winter to develop his final proposals for postwar foreign policy. They appeared in March and April 1945 in the form of newspaper articles, a very small volume, written with Hugh Gibson, and a speech in Philadelphia. They constituted Hoover's advice to the American government and people as to how the proposals that issued from the meeting of Allied representatives at Dumbarton Oaks could be turned into a genuine peace charter at the world organization conference at San Francisco that summer. His suggestions came to nine:

First: There are certain fundamental political rights of men and of nations that should be specified in the Charter. There are certain moral and spiritual standards of conduct among nations that should be proclaimed. . . . we should make them effective by the establishment of a World Committee to promote these political rights. . . .

Second: We should provide for peaceful revision of onerous treaties between nations, in order that political progress in the world should not be frozen.

Third: We should create regional subdivision of the organization for preservation of peace into three areas, Asia, Europe and the Western Hemisphere; the regional organizations must of course be in harmony with the Security Council.

Fourth: We should insist upon total disarmament of the enemy powers.

Fifth: We should provide prompt proportional postwar reduction in the armies of the United Nations and the establishment of a maximum limit of armies, navies and air power among them.

Sixth: Although it is not a part of the charter itself, I [suggest] a method by which the war powers of the Congress could be preserved without delay to action in a crisis.

Seventh: Take enough time in formulating the Charter of Peace to do it right. . . .

Eighth and Ninth: There should be a control of military alliances. There should be a definition of aggression. And Senator [Arthur] Vandenberg's proposal that the Assembly be given freedom of initiative should be adopted.

As a gesture of unity, made in his Philadelphia address after Franklin D. Roosevelt's death, Hoover also asked that the new President, Harry S. Truman, be given "every support . . . in his gigantic task."

In all this, Hoover had shown his intellectual resiliency. He quickly adapted his ideas to new situations, as indicated by his response to the Dumbarton Oaks proposals. Indeed, the points he (along with others) raised became key issues in public discussion and at the San Francisco conference, and many of these suggestions were adopted by either the major Allied powers, or the conference, or the United Nations Organization which grew out of it. Yet, Hoover's proposals of spring 1945 were not far different from what he and Hugh Gibson had discussed three years earlier in "The Problems of Lasting peace." The goals remained the same: to avoid the failures of the Treaty of Versailles and the League of Nations, and to establish a workable permanent peace. Certainly, Hoover did his bit to lay the groundwork for a world charter of political rights, disarmament of the enemy, recognition of national interests, a definition of aggression, and freedom of initiative for the UN Assembly. This was also true in the development of regional councils, of treaty revisions, and of arms reductions. He failed to see control of military alliances in his lifetime, and he must have been irritated by the rush to decision in establishing an international peace organization, particularly since it was clear that no world power was willing to surrender part of its sovereignty to a world organization. By any standard, however, his batting average on the postwar peace issues was high. The world would discover the hard way that there were, as he repeatedly declared, no short cuts to peace. The world would also learn that nationalism and ideology were even bigger forces than Hoover had said.

Three weeks after the United Nations Charter had been formulated in San Francisco in June, the former President took to the radio, over a nation-wide network, to urge the Senate to ratify the charter. The document, he said, "is better than the Dumbarton Oaks version and is probably as good as could be obtained under the existing emotions, the present governments, the conflicting ideals and ambitions in the world." He asserted that world adoption of the charter could not assure permanent peace; that would depend upon the nature of postwar economic and political settlements and the success of efforts to strengthen the UN. In the days immediately ahead, therefore, it was essentital that the American, British, and Russian governments, as the "trustees" of the peace, continue their wartime cooperation. He wagged his Wilsonianism at the world by warning that all nations should adhere to the principles of "No annexations of territory; No territorial changes without the free consent of the people therein; Full sovereignty of people without domination; The right of all peoples to choose freely their own form of government and their own officials; Equality of trade and freedom of the seas; The right of minorities to protection; The right of fair trial before conviction; The prohibition of deportations, of slavery or compulsory labor . . . And finally the greatest rights of all, that is, free press and free worship." Hoover recognized that these were idealistic, but he pointed out that since people would always strive to attain these rights, there could be no enduring peace without their guarantee.

Between his output of early spring and his July 1945 statement on the San Francisco conference, Hoover had again become greatly involved in the war relief question, which was inseparable from foreign policy. With the impending collapse of the Nazi empire in Europe and the obviously inadequate efforts of the Allies in providing relief, he decided that it was time to mount a major campaign to take care of the needs of the war-stricken peoples. He and his associates held a war relief meeting on May 8 in New York's Carnegie Hall to mobilize public sentiment. In his talk there, he outlined the desperate plight of the hungry, especially the children, in Europe. He took care to note Harry S. Truman's sympathy toward relief efforts when he was a Senator. Hoover said that only the War Department had the organiza-

tion and resources to get surplus foodstuffs quickly to the starving people of the formerly occupied countries of Europe; he also recommended that an American agency be formed and join with other groups, including UNRRA, to establish a longer-term relief program of food, clothing, and medical supplies.

Eight days later, in a nationally broadcast talk, Hoover again called for the United States Army to "take over the whole job of food relief to the liberated countries of Western Europe." He called this "a problem of the next ninety days." The next day, May 17, Secretary of War Henry L. Stimson, asked the former President to discuss the matter with a group of War Department officials. Therefore, an eight-man delegation, headed by Assistant Secretary John J. McCloy, went to see him in New York City. Hoover believed that the "whole conference was staged to convince me that the Army would not take over the relief of the liberated countries during the next 90 day emergency." Nevertheless, he took the statements of McCloy and his colleagues as confirmation that there would be a food crisis of the highest order in Europe during the coming three months and that, if it really wanted to, the Army could resolve the crisis. Therefore, Hoover refused to back down. He urged upon McCloy the appointment of "an Eisenhower of economic life" in Western Europe to get the job done and of a deputy in Washington who could secure the necessary funds, transportation, and supplies from this side of the Atlantic. He warned the War Department delegation that "unless this is done, the liberated countries are likely to go Communist." He was understandably pessimistic about the results of this meeting, however, concluding: "a. The good idea of mine had been destroyed by the assaults of combined bureaucracy. b. That we can expect the worst."

The meeting with McCloy was not to end the matter, however, nor was it Hoover's only conference with high federal officials in the spring of 1945. Beginning April 21, Stimson tried to get in touch with the man under whom he had served as secretary of state. His first attempt was unsuccessful and in a second telephone call Stimson tried to arrange a meeting, but since the secretary gave no reason for it, Hoover said he had other plans. In a later telephone conversation, Stimson came to the point, asking his old chief to visit Washington to discuss the postwar situation with him. He reported, obviously as encouragement, that Harry Truman believed this would be valuable. Hoover replied that if the President thought that, the two of them could talk directly. Although the war secretary asked Hoover not to be stubborn, he stood his ground and ultimately arrangements were made for him to see first Stimson and then Truman.

The former President met with Stimson during the first part of May and later sent him a position paper on the world situation. He viewed Russia's wartime annexations and establishment of satellite states in Eastern Europe as being permanent; he predicted that other Stalinist satellites might be set up in Greece, Italy, part of Germany, Korea, Manchuria, and North China. The minimal result of this for America and Britain would be the exclusion of private enterprise in these areas and competition with gigantic Communist monopolies for the world market. That led Hoover to conclude that the two Western powers and China should try to negotiate peace with Japan not only to conserve their human and material resources but also to keep the Soviet Union from having a free hand in the Far East.

Hoover's audience with Truman occurred in the White House the morning of May 28. Their conversation encompassed three topics: war relief, domestic food administration, and the overall foreign situation. On relief, they agreed that Russia would assume responsibility for looking after Eastern Europe. Hoover told the President that action was urgently needed for the rest of Europe. He outlined his case for the Army to take over the immediate administration of war relief efforts in Western Europe in cooperation with national authorities there. Truman indicated that although Stimson had opposed this, he agreed with Hoover. He asked Hoover to take the issue up again with the secretary of war.

The pertinent remarks of the President and the former President on domestic food problems concerned methods of insuring that there would be sufficient supplies for needs both at home and abroad. As for the foreign situation, Hoover contended that because of the Asian characteristics of the Russians, they could not be expected to see or do things the Western way. He asserted that "we could not go to war with them and we should never bluff. Our position should be to persuade, hold up our banner of what we thought was right and let it go at that. A war with Russia meant the extinction of Western civilization or what there was left of it." Regarding Japan, he believed that America, Britain, and China should inform Japan they were willing to end the war—without Russian intervention—if Manchuria was returned to China, if the Japanese military forces surrendered unconditionally, if Japan was disarmed completely for thirty or forty years, and if certain Japanese were handed over for trial for war crimes. Thus could Japan escape military occupation, destruction of its form of government, and possible extermination; it might even retain Korea and Formosa. Hoover thought that the dividends of Japanese acceptance of such terms could be great: the avoidance of an awesome loss of life and resources, the strengthening of China, the exclusion of Russia from new areas for expansion in the Far East, and a sounder basis for world peace. Truman asked Hoover if he was optimistic that Japan would accept. He said no, but that since the installation of the relatively moderate Kantaro Suzuki ministry in Japan "there was a bare chance," and one worth taking. At the end of the conversation, the President returned to the Russian situation, and Hoover repeated what he had earlier said, emphasizing that "we were not going to war with them." Truman then asked him to submit memoranda covering his suggestions.

Hoover left the White House thinking that the President "was simply endeavoring to establish a feeling of good will in the country, that nothing more would come of it so far as I or my views were concerned." Nevertheless, he dutifully sent on his memoranda, which repeated and slightly elaborated upon the points he had made in his conference with Truman (for example, he suggested that Suzuki, with whom his government had dealt during the Manchurian crisis of 1931–1932, should remain as prime minister). The administration, obviously, did not take Hoover's advice about making a declaration that would offer Japan liberal terms for ending the war immediately. Although Under Secretary Joseph C. Grew and other experts on Japan in the State Department were arguing much along the lines of Hoover's thought throughout May, General Douglas MacArthur and the Joint Chiefs of Staff had recommended Russia's entry into the war against the island empire in order to reduce America's battle losses. Stimson went along with the men in uniform, and that was enough for President Truman, especially since there was doubt then whether the atomic bomb would work. Indeed, the same day that Truman was talking with Hoover, Harry Hopkins was conferring, as the President's representative, with Josef Stalin in Moscow.

At that May 28 meeting, Stalin assured him that Russia would fully respect Chinese sovereignty in Manchuria. Hopkins therefore recommended to Truman implementing the secret accord of Yalta that provided for Soviet entry in the war against Japan during the summer. Although the Russian dictator promised to respect the rights of China's Chiang Kai-shek government, he also indicated that the expected unconditional surrender would be the basis for an end to the war in the Pacific and that Russia would play a part in the peace settlement with and the occupation of Japan.

Plainly, Hoover's ideas regarding Japan had little chance of acceptance by May 28 in view of the secret Yalta accord and the eagerness of President Truman and the military chiefs to avoid further great American battle losses. Yet, even had the American government followed the path suggested by Hoover, there is no guarantee that the Russians would not have invaded Manchuria and Korea, a possibility that could not have escaped Truman and his advisers. The consequences of that, of course, could have been as bad or even worse than what actually happened. Using hindsight, however, one finds it irresistible to conclude that the odds are Hoover's proposed policy would have been superior to the one that was implemented. This is because logistical limitations might have kept the Soviet Union from forcing its way into the war with Japan. Even if Russia had entered the war unasked, it would probably have ended up with no more influence in the Far East than it had acquired by 1950, with the net gain that the atomic bomb would not have been used. Of course, this is only a historian's parlor game, for one can construct a plausible scenario of international events that could have been more dreadful for American interests than what occurred, for example, the emergence of Japan as a Communist state or even the outbreak of full-scale war between the United States and the Soviet Union.

If Herbert Hoover had no influence upon Truman on Russian and Japanese affairs during spring 1945, he did in the other areas they discussed. As the President had suggested, he met with Secretary of Agriculture Clinton Anderson and Secretary of War Stimson. The collaboration with Anderson on domestic food matters was highly rewarding, especially as it related to postwar reconstruction overseas. In Hoover's meeting with Stimson and Assistant Secretary McCloy, he repeated what he had told Truman. It was, of course, not news to them. The difference was that Hoover now had the President's endorsement.

That, along with continuing pressure from relief advocates within the War Department, was all that was needed for Secretary Stimson to do an about face on the Army taking over war relief for Western Europe during the critical months ahead. Thus, in the area dearest to Hoover, he scored a major victory. The results were not entirely adequate, but they allowed the United States and Western Europe to turn the tide against famine and pestilence and to combat the perceived threat of Communist expansion. Moreover, the emergency war relief program was one of the foundations for continued foreign aid developments, which were so massive and had such consequences for good and evil that even as sensitive a man as Hoover could not foresee them.

After Hoover helped to initiate an expanded American program of overseas relief, the war soon came to an end. Before then he made clearer his fear of what his country's foreign policy might lead to. On July 20 he joined several dozen other prominent Americans in urging President Truman to understand that the chances for peace and cooperation with Russia could not be enhanced by ignoring what appeared to be the enslavement of Poland. Hoover wrote a memorandum on August 8 indicating that the Potsdam Big Three conference confirmed Russian domination of Eastern Europe and the administration of Germany in such a way that

would prevent it from becoming the needed balance wheel for Europe's economy. He also took this opportunity to express his disgust with the atomic bomb, the use of which, "with its indiscriminate killing of women and children, revolts my soul." Three days later the former President publicly pointed with alarm to the gains being made by "Communism and Creeping Socialism" in Asia and Europe. The philosophical answer to this development was, he stated, to "proclaim again and again that the road to free men and to progress and prosperity is not to be found in the spread of governmental powers and bureaucracy, but in striving to set bounds to it." At the end of the war, Hoover was able to summon up brighter thoughts. He gave thanks to God, and rejoiced in the close of "a hideous era." The future could be glorious, he added, "if we have high statesmanship in the world and are willing to sweat for a few years during the transition period from war to peace. . . . In the long-view of the new era, the bright hope is enduring peace. With peace, we can have recovery; with peace, we can hope for a regeneration of civilization. With peace, the everlasting stir in the hearts of men and nations to be free will return to the world." This was his hope, even if he was pessimistic that it could be achieved.

Herbert Hoover's thoughts and activities regarding foreign policy during World War II are richly significant. They document a fact that too many scholars ignore, which is that former holders of high political position constitute an aristocracy, a kind of American House of Lords, if you will, that has considerable impact on society. That impact, as Hoover's post-presidential life shows, includes influencing the course of national and international policies and events as well as expressing and shaping public opinion. Despite various twists and turns, Hoover was able by December 1941 to become more creditable among his fellow Republicans and therefore more of a force, at least an intellectual force, to be reckoned with. He became more mellow and flexible after Pearl Harbor, with the result that his influence upon public opinion and Republican and even some Democratic leaders increased. Indeed, after the death of Franklin D. Roosevelt, his ideas and presence became welcome again in many high official circles, including the White House.

This did not mean that the results of his activities were always satisfactory, either to the nation or to Hoover himself. His imperfect grasp of rhetoric often left him misunderstood, and those whom he influenced usually reshaped his ideas to suit themselves, with consequences that Hoover had not wanted. Nevertheless, the former President courageously, if not always wisely, entered into the give-and-take of American politics, and on balance the country was the better for it. His espousal of peace and humanitarianism was a partial counterweight to the talk of those who believed that every incident was the occasion for war. His conception of the roles of realism and idealism in international relations helped to keep the truculent dialogs between the United States and its adversaries from getting completely out of perspective. Yet, it must also be recognized that his intense nationalism added support to high-paced American rearmament and programs of intrigue in the postwar era, which sometimes jeopardized world peace and the restraints on government for which he longed. In part, because of such overreaction, the world has had a more troubled and prolonged "transition period from war to peace" than Hoover had originally thought necessary. It is not going too far to say, however, that the United States followed to a considerable extent his and similar prescriptions of voicing its beliefs, of negotiating toughly for them, but of avoiding war with major adversary states. Even if the deviations from this program, for example, the Vietnam war and the excessive operations of the Central Intelligence Agency, jeopardized the maintenance of peace and threatened at times to scrap some of the most hallowed of traditional American ideals, it is significant that by the 1970's there was renewed interest in the foreign policy goals that Herbert Hoover and others pressed during World War II. His foreign policy activities, among other of Hoover's workers, make his career after 1939 a prime example of the importance of America's elder statesmen.●

NEWSPAPER TAX ACT

● Mr. MORGAN. Mr. President, not long ago I introduced S. 555, which would help the decreasing number of independent newspapers to remain locally controlled. I have since been joined in this effort by Senators BAKER, SASSER, PERCY, INOUYE, SCHMITT, MATHIAS, RIEGLE, MCGOVERN, FORD, COHEN, PELL, HELMS, PRESSLER, DURKIN, COCHRAN, LEVIN, STEWART, MAGNUSON, DECONCINI, BOREN, LEAHY, HATFIELD, CHURCH, STEVENS, BENTSEN, BOSCHWITZ, and GRAVEL. There has been a great deal of support for this bill from publishers and editors of independent newspapers from across the Nation, but I think this letter, which was printed in the Editor and Publisher of July 7, 1979, most accurately expresses their views regarding this problem. I request that it be printed in the RECORD.

The letter follows:

MERGER CONCERN

I'm getting more than just a little weary of reading news articles and slick magazine ads telling us what a great thing it is now that the Gannett conglomerate has gobbled up 80 daily newspapers, 7 television and 12 radio stations.

And that doesn't include outdoor advertising interests, weekly newspapers, Canadian newsprint interests, marketing, research and news service subsidiaries stretching from the U.S. Virgin Islands in the Atlantic to the U.S. Territory of Guam in the Pacific and including 33 states in between.

The merger of the Gannett Co. and Combined Communications Corporation was one of the worst things that has happened in America in recent years. The danger of Three Mile Island was mild by comparison. The merger should not have been allowed and the government antitrust division should break it up.

I am completely unimpressed by the high-sounding boast that Gannett is a "world of different voices" and how much better group ownership is for local communities. Hogwash.

Everybody knows who signs the checks, who gives the orders and who has the final authority. Make no mistake about that.

How stupid does Allen Neuharth think the people are?

If conglomerate ownership is such a great thing, why does Gannett feel it necessary to spend $1.5 million to polish and improve its image? Why does Allen Neuharth think it necessary for him to spend so much of his company's money flying around the country making speeches trying to allay the fears?

Let's face it. Gannett is a huge conglomerate interested primarily in the bottom profit line. Let anybody—be it the President of the United States or the lowliest citizen, threaten Gannett's bottom line and you'll quickly see how much authority its local editors have!

I understand Mr. Neuharth is a very fine, capable, personable gentleman and I have no quarrel with him personally. His company, Gannett, also has a fine reputation up to this point.

But what happens when Mobil Oil or the Arabs buy out Gannett? Who gets control then? What will the man be like who succeeds Mr. Neuharth on his retirement?

His successor could be money-hungry and power-mad. Why give him or anybody else possession of such power?

I understand American Financial owns seven per cent of Gannett already, which is a pretty sizeable hunk of a big corporation. What if American Financial keeps on until it gains control? (It reportedly is trying to do this.) American Financial has no interest in any of Gannett's newspapers, tv, radio or other operations except financial.

Out tax structure is partly to blame, if not almost wholly, for enabling Gannett to attain control of such a vast segment of our communications media.

Because of depreciation, deductions for interest payments and other loopholes, the big chains can grab off these newspapers at almost no cost. And if they're unprofitable, they can write it off their taxes.

U.S. Senator Robert Morgan, a resident of my own county and a neighbor of mine, and Congressman Morris Udall have introduced legislation to ease the estate tax burden on heirs when the owner of an independent family newspaper dies. The whole nation owes Sen. Morgan a debt of gratitude.

This legislation of Senator Morgan would prevent the growth of these conglomerates and keep them from continuing to buy up public opinion and from creating monopolistic financial empires at the expense of the public.

Mr. Neuharth should read the testimony given by James Hurley III of the *Salisbury Post*, reprinted in the May 24 issue of the *Congressional Record*. Jim Hurley tells what happens to local newspapers when the chain moves in.

In a speech in New York June 12 Mr. Neuharth said nobody is looking over the shoulders of his local editors and publishers—he should have said: No one looks until they violate corporate policy. Chain newspapers are like the government—they simply don't hand out checks without controls.

Just for example, what if a member of Mr. Neuharth's family should run for public office. How long would the local editor keep his job after opposing him?

We must accept the fact that Gannett now controls an empire. But we don't need Mr. Neuharth or its advertising agency, Young & Rubicam, to rub salt in the wound it has inflicted on the First Amendment and press freedom in America. Please, Gannett, don't talk to us about Freedom! ●

PATRICIA ROBERTS HARRIS

● Mr. RIEGLE. Mr. President, it was recently my privilege to participate in the NAACP 24th annual Fight for Freedom Dinner in Detroit. That evening, U.S. Circuit Court of Appeals Judge Damon Keith had the honor of introducing the keynote speaker, the Secretary of Housing and Urban Development, Patricia Roberts Harris. As is his custom, Judge Keith gave a forceful, entertaining, and illuminating presentation that accurately reflected the superb work that Secretary Harris has done since taking on the challenge of managing HUD. For those who are curious about the newly designated Secretary of Health, Education, and Welfare, I encourage you to read Judge Keith's revealing remarks which follow:

INTRODUCTION OF PATRICIA ROBERTS HARRIS, SECRETARY, THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AT THE NAACP 24TH ANNUAL FIGHT FOR FREEDOM DINNER

Ladies and gentlemen, friends and supporters of the Detroit NAACP Freedom Fund Dinner, and freedom lovers all, I hold in my hand a series of unique and serious charges made against our guest speaker. As one who tries to be fair-minded, I think these charges should be shared with you today.

Our speaker has been accused of being one of the toughest, most fearless and most forceful advocates of the needs of our cities, minorities and the poor to be found today.

Rep. Henry S. Reuss, the highly influential chairman of the House Banking, Finance and Urban Affairs Committee, has accused our speaker, in his words, of being the "best HUD secretary ever."

Columnist Chuck Stone, of the Philadelphia Daily News, accuses our speaker of being a woman wedded to equality, a black obsessed with excellence and a lawyer driven by justice. He further charges that she is motivated by a fiercely proud legacy handed down from Harriet Tubman, Sojourner Truth and Mary McLeod Bethune.

The conservative U.S. News & World Report, in ascertaining the 100 most influential people in government, accuses our speaker of being one of the President's most able cabinet officers.

Yes, my friends, the indictment returned against our speaker has been supported by accusations spread throughout the pages of various other national publications.

In count I, our speaker stands accused of having the highest number of housing starts since 1973.

In count II, our speaker stands accused of appointing more blacks and women to top positions at HUD than any other agency in Government.

In count III, our speaker stands accused of instituting the so-called "Harris Manifesto"—a doctrine reflecting her strong and unwavering commitment to move black people into areas that have been closed to them and to provide remedies for all people who are subjected to unfair discrimination.

Top officials from the real estate industry, who opposed the appointment of our speaker to her present position, now accuse her of bringing new management efficiency, badly needed new commitment to the cities, and a new, positive image to HUD.

Top aides at the White House, some of whom have delighted in leaking to the press that our speaker is in trouble with the Administration, now accuse her of being the chief architect of the President's urban policy, of being a combative but loyal team player.

Another Washington correspondent accuses our speaker of becoming a Joan of Arc for blacks, hispanics and the poor in her courageous fight against budget cutbacks of social programs. And our own beloved mayor, Coleman A. Young, who we all know does not hesitate to call them as he sees them, has made one of the most telling accusations of all, calling our speaker the blank blankest and best friend the cities of this country have ever had.

Lastly, our speaker has been accused of being disrespectful of male chauvinism and unintimidated by powerful members of the U.S. Congress. On this charge, ladies and gentlemen, I fear that our speaker's guilt is established beyond doubt by words uttered from her own lips. For instance, in responding to Senator William Proxmire's question concerning whether she was "sufficiently by, of, and for the people" to be attuned to the needs of the poor, our speaker's public and recorded response was, and I quote:

"Senator, I am one of them. You do not seem to understand who I am. I'm a black woman, the daughter of a dining car waiter. I'm a black woman who even eight years ago could not buy a house in some parts of the District of Columbia. Senator to say I'm not by and of and for the people is to show a lack of understanding of who I am and where I came from.

"I started, Senator, not as a lawyer in a prestigious law firm but as a woman who needed a scholarship to go to college. If you think I have forgotten that you're wrong.

"I started as an advocate for a civil rights agency, the American Council on Human Rights, that had to come before this body to ask for access to housing by members of minority groups. If you think I have forgotten that, Senator, you're wrong.

"I have been a defender of women and minorities, of those who are the outcasts of this society, throughout my life, and if my life has any meaning at all, it is that those who start as outcasts may end up being part of the system. And I hope it will mean one other thing, Senator, that being part of the system, one does not forget what it meant to be outside it, because I assure you that there may be others who forget what it meant to be excluded from the dining rooms of this very building, I shall never forget it."

Ladies and gentlemen, it is with great pleasure that I join the poor, the oppressed, the neglected, the down trodden and the handicapped in finding the accused guilty on all counts of being an outstanding American—of fighting the good fight—of giving hope to the hopeless—and of keeping the faith.

The record speaks for itself. Of being a remarkable leader, the accused is guilty beyond a reasonable doubt. Of being a tough and sensitive black woman, guilty beyond a reasonable doubt. And of being a highly capable and effective Secretary of the Department of Housing and Urban Development, the accused is guilty beyond a reasonable doubt.

Ladies and gentlemen, the culprit, and our speaker for today, the Honorable Patricia Roberts Harris. ●

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 260 and 269.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, those items are cleared on our calendar. We have no objection to their consideration and passage.

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

YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT FEASIBILITY STUDY

The legislative clerk read as follows:

A bill (S. 585) to authorize the Secretary of the Interior to engage in a feasibility study of the Yakima River Basin Water Enhancement Project,

The Senate proceeded to consider the bill.

The bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Department of the Interior is authorized and directed to conduct a feasibility study of the Yakima River Basin Water Enhancement Project. The Secretary is authorized to accept moneys from the State of Washington or other persons or entities, public or private, to assist in the financing of the feasibility study. If moneys are so provided by the State of Washington, and Congress thereafter authorizes and appropriates funds for the construction of the Yakima River Basin Water Enhancement Project, the moneys so provided by the State shall be credited to the total amount of any costs required to be borne by the State as contributions toward or repayment for costs of the project.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANNIVERSARIES OF THE WARSAW UPRISING AND THE POLISH RESISTANCE

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 373) recognizing the anniversaries of the Warsaw uprising and the Polish resistance to the invasion of Poland during World War II.

The Senate proceeded to consider the joint resolution.

● Mr. MUSKIE. Mr. President, I rise to speak on behalf of House Joint Resolution 373 commemorating the Warsaw uprising of 1944 and the Polish resistance to the German invasion of 1939.

It is valuable to remind ouselves from time to time just how precious a commodity freedom is. It is useful to remember the tremendous sacrifices the human spirit is willing to make to gain or preserve that freedom.

The Warsaw uprising and the Polish resistance during World War II are two such reminders.

On August 1, 1944, the Polish Home Army rose up against the Nazis in Warsaw. Led by Gen. Tedeusz "Bor" Komorowski, the Poles were able to seize control of two-thirds of their city of Warsaw. They battled against the formidable forces of the Nazi army for 63 days before surrendering the city. Some 250,000 Polish people lost their lives in this fighting. In retaliation, the Nazi army completely destroyed the city.

August 1 of this year will mark the 35th anniversary of the Warsaw uprising.

On September 1, 1939, the army of Hitler's Third Reich invaded Poland. With only a force of 800,000 to defend their country, the Poles met the massive Nazi onslaught of over a million troops and 3,000 tanks. Poland fell in 18 days. Two days before the Polish defeat, Stalin's army descended upon Poland from the east and occupied nearly one-half of the country. The occupation by these two powers encouraged an active and effective underground movement and a Polish government-in-exile. This historical invasion marked the beginning of World War II.

Today in the beautiful city of Warsaw, which I visited earlier this year, the numerous plaques and monuments commemorating Polish resistance are constant reminders of a people who have consistently resisted oppression against incredible odds.

These two events in Polish history are a lesson not only for the Poles and the 10 million Americans of Polish descent, but to all peoples of the world, for they represent the powerful spirit and passion of a people determined to gain their freedom. The fight for freedom has taken place in many parts of the world, and continues to take place as I stand here today.

Mr. President, I think the passage of this resolution will be a source of inspiration to those who value freedom and a warning for those who do not understand the true meaning of freedom.●

● Mr. DOLE. Mr. President, I rise in support of H.J. Res. 373. This resolution recognizes the great courage exhibited by the Polish people in their opposition to Nazi tyranny, which peaked with the Warsaw uprising of August 1, 1944.

Mr. President, the Polish people have continually fought bravely against the tyranny of Nazi Germany from the very beginning of the German invasion of Poland on September 1, 1939. Despite this fierce resistance, the force of the Nazi war machine, aided by the Soviet Union, was unstoppable. At month's end, Poland had been carved up by the twin powers of Germany and the U.S.S.R. The Polish nation was held together only by the faith and perseverance of its people.

During the ensuing years the Polish people were subjected to unconscionable horrors perpetrated by the Nazi. By the end of the war 6 million Poles had died, many of them in the infamous Auschwitz concentration camp. Facing adversity, in the midst of these horrors, the Polish people stood tall in their continued resistance to Nazi oppression. It is to the Pole's credit that no significant Polish leader aided the Nazi during their reign of terror. The determined Polish underground had its finest hour when, on August 1, 1949, the Polish Home Army rose up against the Nazi, and held major portions of Warsaw for over 2 months.

Mr. President, I call on the Congress to recognize the anniversaries of the Nazi invasion and the Warsaw uprising. There is much inspiration we can draw from the Pole's persistent quest for freedom. May we pursue freedom and justice with the same vigor exhibited by these brave people.●

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

The preamble was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NASA AUTHORIZATIONS, 1980—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Senator STEVENSON, I submit a report of the committee of conference on H.R. 1786 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 amendment of the Senate to the bill (H.R. 1786) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, 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 all 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 20, 1979.)

● Mr. STEVENSON. Mr. President, the conference agreement authorizes $4,961,000,000 for the National Aeronautics and Space Administration for fiscal year 1980. This amount is identical with the Senate bill, $199 million above the House bill, and $16 million above the budget request as amended by the President on May 14, 1979. The budget amendment recommending an additional $220 million for the space shuttle development program was submitted subsequent to House passage of H.R. 1786 which accounted, in large measure, for the differences in authorization levels between the House and the Senate.

The increase of $16 million above the request provides funding for systems definition, more intensive technology advancement, and/or preparatory work on new initiatives in space applications, aeronautics and energy technology. These are relatively modest additions yet they represent those tasks that must be undertaken to support productive applications of advanced technologies.

Mr. President, I believe the conference agreement is one that contributes to a sound program in space and aeronautics. I know of no objection to this conference report.●

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. Mr. President, 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 yield the floor for the moment.

Mr. PROXMIRE. Mr. President, are we in morning business?

Mr. BAKER. Yes.

The PRESIDING OFFICER. The Senator from Wisconsin.

THE THREAT OF FOREIGN BANKING

Mr. PROXMIRE. Mr. President, the distinguished junior Senator from Pennsylvania, Senator HEINZ, has written an excellent article for the New York Times which appeared yesterday in the Sunday Times called "The Threat of Foreign Banking." He calls the attention of the country to a situation that might become rather embarrassing for us.

We take pride in the fact that our banks are independent and strong. The fact is that 22 of the 25 biggest banks in the world are not American banks. Other countries, of course, have only few banks but they are very large, well capable of moving in and taking over our banks, and they have begun to do it in some areas.

The Commissioner of Banking in New York is particularly concerned and raised her voice against this.

Senator HEINZ and I both have introduced proposals for a moratorium on foreign bank takeovers until we can get a study made by the President and by the Treasury Department.

The explanation of this proposal is very well expressed by Senator HEINZ in his fine article in the New York Times.

Mr. President, I ask unanimous consent that it be printed in full in the RECORD.

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

THE THREAT OF FOREIGN BANKING

(By H. JOHN HEINZ 3d)

Banks wield enormous economic influence in our country. Their leveraging position and their allocation of credit play a pivotal role in our economic system. Yet the fact that foreign-owned banks have become a major new force in the New York banking system, indeed in all the major money centers of our nation, have elicited little attention or concern from Federal bank regulatory agencies.

The president of the Federal Reserve Bank of New York, Paul Volcker, said recently that the question about limits to the degree or manner of penetration of domestic markets by foreign banks "is nowhere addressed specifically in the International Banking Act or other Federal legislation." This serious omission should be of concern. I fear that the recent wave of foreign acquisitions of American banks may have profound implications for the American banking system. In fact, if present trends continue or accelerate we will lose a significant amount of control of our entire economic system.

Since 1972, when the Federal Reserve first started keeping track of the figures on foreign ownership, foreign bank assets in the United States have more than quadrupled, going from $18 billion to more than $100 billion, and if all of the currently proposed acquisitions are approved by the Fed, foreign-owned bank assets will increase by an additional 20 percent. This represents approximately 9 to 10 percent of the total bank assets in the United States. The problem is even more pointed because we are not really sure of the statistics. Even the Federal Reserve concedes that their figures are preliminary and possibly incomplete.

Foreign banks now make more than 15 percent of all big United States business loans. In California and New York, where foreign banks have the highest concentration, that proportion approaches 30 percent.

Foreign involvement in the United States banking market has been increasing steadily and substantially over the last six years. The number of foreign banks operating in the United States in 1972 was 66. By the end of 1978 this number had grown to 189, a nearly threefold growth in six years.

Until quite recently, the foreign banking presence in the United States came mainly as a result of the establishment of new offices of affiliates. Within the last two years, however, it has become clear that the pattern of foreign penetration of the American banking market has changed dramatically. Foreign interests have suddenly begun to achieve substantital positions in the market by means of acquisitions of large United States banks. It should be noted that laws governing United States banks abroad are stringent and would prevent what is happening in this country. For example, it would be impossible for a major United States bank to acquire a comparable "clearing house" size bank abroad.

Takeovers and attempted takeovers by foreign banks have been numerous in the last year—the Hongkong and Shanghai's bid for Marine Midland with $14 billion in assets, Standard Charter's acquisition of Union Bank of California's $4.7 billion in assets, National Westminister's purchase of the National Bank of North America with assets of $3.8 billion, Algemene Bank Nederland's purchase of the 1 billion La Salle National Bank of Chicago, which was approved by the Fed on July 13, and Midland Bank Ltd.'s offer for Walter E. Heller International, which owns the $2 billion National Bank and Trust in Chicago. In addition, it has been widely reported that there are a number of other foreign interests exploring, either directly or through investment bankers, possible acquisitions of large United States banks. Virtually every leading American investment banking firm has compiled an analysis of major American banks that might be acquisition targets for their foreign clients.

Foreign control of a substantial proportion of the domestic banking system would inevitably raise questions concerning the degree that such banks would carry out monetary or investment policies supportive of United States interests, especially when those interests happen to conflict with those of the owners' home country. Foreign-exchange operations and willingness to make loans to other large domestic banks are two areas where conflict of interests might arise. Willingness to make loans to large United States companies in competition with the home countries' state-owned business enterprises is another potential problem.

I am concerned that we have not fully considered the implications of a substantial proportion of our banking system falling under foreign control. I am concerned that our bank regulatory agencies have not fully worked out the criteria to judge what are acceptable foreign buyers. And with petrodollars piling up, foreign individual buyers may become a major new force. These buyers are essentially beyond our jurisdiction and beyond our control. It is likely that the prospect of both direct and indirect financial and political influence will convince wealthy Arab businessmen that United States banks are indeed a good investment.

Acquisitions by foreign banking institutions present problems no less serious. At hearings on foreign takeovers on July 16, I asked Henry C. Wallich of the Federal Reserve whether our bank regulators had the authority to examine the books of a foreign bank. He replied that they did not. All they could ask for would be specific information as proof of the affiliates' financial soundness. He went on to say that, theoretically at least, Federal regulators could demand an examination as the condition of approval. But when questioned further, he could not cite even one instance when this, in fact, had been demanded. Muriel Siebert, New York State's banking superintendent, has complained that her evaluatory task was made much more difficult by the fact that the Hongkong and Shanghai Bank could not even produce balance sheets based on the same accounting principles used in the United States.

I am concerned that foreign takeovers of United States banks may have a perverse "snowball" effect. With each additional acquisition by a foreign bank, other foreign banks may come to believe that they too must make a comparable acquisition in the United States in order to keep pace with their competitors. Similarly, United States banks may become irresistibly attracted to the advantages of foreign bank holding companies, which, unlike our domestic ones, are able to establish and retain affiliations with a broad variety of nonbanking businesses.

Finally, I am concerned that the current wave of foreign takeovers of American banks may place United States banks—and in the long run perhaps even American business—at a significant disadvantage. United States banks already have fallen behind the growth rates of the largest foreign banks. If foreign banks alone can acquire leading positions in both their home markets and in the United States, they will have significant advantages in many areas of international finance.

JANET L. NORWOOD, DIRECTOR OF THE BUREAU OF LABOR STATISTICS

Mr. PROXMIRE. Mr. President, we have a relatively new Director of the Bureau of Labor Statistics, a woman named Janet L. Norwood, who has done a marvelous job.

There is a fine article in yesterday's New York Times about Janet Norwood, about her hard work, her intelligence, her administrative ability. We have every reason to be proud of the fine job she has done.

She has appeared before the Joint Economic Committee many times over the years. She succeeded Julius Shiskin who died, as we all know, about 3 or 4 months ago.

She has done an outstandingly fine job. The New York Times indicates some of her strengths and her accomplishments.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

SHE TAKES HER COMPUTERS HOME

(By Philip Shabecoff)

WASHINGTON.—"The honest working woman is entitled to the respect of all honest-minded people," said the first Commissioner of Labor Statistics, Carrol Davidson Wright, back in the days of President Chester A. Arthur. "She should be welcomed into the churches of the cities and drawn into the best associations."

Mr. Wright would undoubtedly be delighted to know that the Bureau of Labor Statistics is now headed by the kind of working woman he championed. Janet L. Norwood is not only the first woman to head the 95-year-old bureau, she is the first employee to move up through the ranks to its top slot, succeeding Julius Shiskin, who died last October.

At the very least, Dr. Norwood is a person who is entirely comfortable probing the statistical black forest that harbors many of the secrets of an often troubled economy. Occasionally, she even lugs one of the bureau's computer consoles home with her and sits around, she says, "finding out what they can do."

Dr. Norwood, who was sworn in May 18, is beginning to make a noticeable mark as well in the running of the bureau. Among other things, she has taken pains to make its work more responsive to policy needs. Each month, for example, she issues special analyses on such issues as teen-age unemployment, which has been a political land mine of contradictory data. She has taken steps to improve the quality of such statistical series as state and local unemployment data, and she is seeking better communications with Congress.

Having come up through the ranks, the 55-year-old Dr. Norwood does not have any particular academic reputation beyond that of a competent economic statistician. But she is extremely respected within the Labor Department and was pushed strongly for the job by Secretary of Labor Ray Marshall. Members of her own staff speak highly of her, even when talking anonymously. "She is a brilliant person, very quick on her feet and a very effective speaker," said an aide. "She's a people person as well as a numbers person. She has a lot of empathy for people."

Dr. Norwood has taken over an agency that has been a center of controversy in the past even though its mission is to produce straightforward statistical reports on such things as employment and unemployment, consumer prices, wages, trade and a wide variety of other subjects.

Although the bureau and its leaders have managed to maintain a reputation for objectivity, it has been asserted by critics that past administrations, particularly the Nixon Administration, sought to use the agency for political purposes.

In his book, "An American Life," a former Nixon aide, Jeb Stuart Magruder, recalled how the White House had persuaded the bureau to stress good news about employment rather than bad news about unemployment. Mr. Magruder commented that the bureau had resisted the White House request for a time and that "it seemed outrageous that a bureau of the Labor Department should defy a reasonable request by the President."

Dr. Norwood expects no such problems from the Carter White House and has a very clear idea of how the bureau should operate in Washington's highly charged partisan climate.

"The best way to build good statistics," she hold an interviewer, "is to be completely open, be completely objective and stay out of politics."

But Dr. Norwood does not believe this means that the statistics agency should be uncommitted. "First and foremost," she said, "I believe that an agency like ours needs to be responsive to the country's social and economic needs."

To this end, she wants to review the concepts under which the agency operates to find what social and economic changes need to be reflected in the data accumulated and presented by the bureau. For example, data on income and earnings and prices need to reflect the changing status of the family, she said.

"The so-called typical family of four with a male head of the household as the sole income earner" hardly exists any more, she noted. So changes were required in the way family data were collected and reported, she said.

Dr. Norwood does not consider the statistics that are the daily product of her agency to be abstractions. "We find ourselves in the middle of many of the crucial issues facing the country today because most of our indicators have an impact on the real world," she said.

For example, the Consumer Price Index is watched carefully not only by government policy planners but by workers who may have a cost-of-living adjustment linked to the index, she said.

She is not unaware that her new job carries pressures with it. One of the pressures comes from members of Congress and from the Administration for data the bureau does not have and does not have the money or the personnel to collect.

There is also pressure to get reports out fast, she noted, and gave as an example a report on the impact of the recent strike of independent truckers that the bureau brought out in three days. "Sometimes we have to work night and day to get our work out on time," she said. "But it's important. If we are late in getting the Consumer Price Index out, people may lose a pay raise for a whole month."

Working night and day does not seem to faze Dr. Norwood. In fact, some civil servants who work for her have complained that she pushes them too hard, in contrast to her predecessor, who was more interested in doing his own analytical work. According to one economist outside government, Dr. Norwood is bringing a strong administrative sense to the bureau, which it has not always had in the past. She seems eager, as well, to encourage new ways of collecting and analyzing data.

Born Dec. 11, 1923, in Newark, she went through the New Jersey public school system, graduated from Douglass College and received her M.A. and Ph.D. from the Fletcher School of Tufts University.

She taught economics at Tufts and Wellesley and then "I was, shall I say, out of the labor market having two children." She lived abroad with her husband who was a Foreign Service officer, before returning to the United States and joining the statistics bureau 16 years ago as a specialist in international labor law. She later was put in charge of the bureau's Consumer Price Index division and presided over a major revamping of that index. Before succeeding Mr. Shiskin as head of the agency she was his chief deputy.

Dr. Norwood thinks that being a woman may make life on the job a bit harder. "It's always harder being a woman," she said. "A woman always has to work hard and be better." But she also thinks she has been fortunate in her career in the Labor Department. "This department has a social mission," she said, "and I think the men in it have been a lot more open in the way they treat women."

GENOCIDE CONVENTION HEADS LIST OF TREATIES NOT RATIFIED BY THE UNITED STATES

Mr. PROXMIRE. Mr. President, in 1974 the House Subcommittee on International Organizations and Movements issued a report entitled "Human Rights in the World Community: A Call for U.S. Leadership." The committee included in this report a listing of the 29 human rights conventions which the United States has yet to ratify.

Since the committee issued its report in 1974, the Senate has begun to make progress toward including the United States in international human rights treaties. In 1976, the United States joined the nations adhering to the Convention on Political Rights of Women. In the same year, we gave our support to the Inter-American Convention on the Granting of Political Rights to Women.

Mr. President, the Senate certainly acted properly on these two treaties and deserves praise for recognizing the need for protecting the rights of women throughout the world.

However, Mr. President, what about the other 27 treaties? Why is it that we have failed to act on many treaties dealing with simple human rights?

Heading this list of treaties is one which concerns the most basic of all human rights—the Genocide Convention.

To quote Congressman Donald Fraser's 1974 subcommittee report:

> The Senate's failure to ratify the Genocide Convention means that we have yet to accept international legal responsibility for the most heinous of human rights violations. It jeopardizes U.S. leadership and influence in the field of international human rights.

I ask my colleagues to begin anew our commitment to human rights by ratifying the Genocide Convention, and I ask unanimous consent that the list of human rights treaties that have not been ratified by the United States be printed in the RECORD.

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

HUMAN RIGHTS CONVENTIONS

The human rights conventions which the United States has not ratified are listed below:

UNITED NATIONS CONVENTIONS

International Covenant on Economic, Social, and Cultural Rights.

International Covenant on Civil and Political Rights.

Optional Protocol to the International Covenant on Civil and Political Rights.

Convention on the Prevention and Punishment of the Crime of Genocide.

Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity.

International Convention on the Elimination of All Forms of Racial Discrimination.

Convention Relating to the Status of Stateless Persons.

Convention Relating to the Status of Refugees.

Convention on the Reduction of Statelessness.

Convention on the Nationality of Married Women.

Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriage.

Convention on the International Right of Correction.

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

INTERNATIONAL LABOR ORGANIZATION CONVENTION

Freedom of Association and Protection of the Right to Organize Convention.

Abolition of Forced Labor Convention.

Employment Policy Convention.

Right to Organize and Collective Bargaining Convention.

Equal Remuneration Convention.

Discrimination (Employment and Occupation) Convention.

UNESCO CONVENTION

Convention against Discrimination in Education and Its Protocol.

CONVENTIONS OF THE ORGANIZATION OF AMERICAN STATES

Convention on Asylum.

Convention Relatives to the Rights of Aliens.

Convention on Nationality.

Convention on Political Asylum.

Inter-American Convention on the Granting of Civil Rights to Women.

Convention on Diplomatic Asylum.

Convention on Territorial Asylum.

American Convention on Human Rights.

Mr. PROXMIRE. I yield the floor.

ORDER FOR RECESS UNTIL 10 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 o'clock tomorrow morning.

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

Mr. ROBERT C. BYRD. This would mean, Mr. President, that the Senate will proceed to the consideration of the State-Justice appropriation bill at around 10:30.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be recinded.

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

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 2 minutes to consider the nominations on the calendar beginning with Calendar Order No. 253 and extending through Calendar Order No. 268.

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

Mr. ROBERT C. BYRD. Mr. President, if it is agreeable with the distinguished acting Republican leader, I ask unanimous consent that the nominations be considered and confirmed en bloc.

Mr. STEVENS. There is no objection, Mr. President.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

(The nominations confirmed en bloc are as follows:)

THE JUDICIARY

Marvin E. Aspin, of Illinois, to be U.S. district judge for the northern district of Illinois.

Susan H. Black, of Florida, to be U.S. district judge for the middle district of Florida.

James B. Moran, of Illinois, to be U.S. district judge for the northern district of Illinois.

Richard P. Conaboy, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania.

Sylvia H. Rambo, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania.

Lawrence K. Karlton, of California, to be U.S. district judge for the eastern district of California.

Warren W. Eginton, of Connecticut, to be U.S. district judge for the district of Connecticut.

William J. Castagna, of Florida, to be U.S. district judge for the middle district of Florida.

Orinda D. Evans, of Georgia, to be U.S. district judge for the northern district of Georgia.

Marvin H. Shoob, of Georgia, to be U.S. district judge for the northern district of Georgia.

G. Ernest Tidwell, of Georgia, to be U.S. district judge for the northern district of Georgia.

Robert L. Vining, Jr., of Georgia, to be U.S. district judge for the northern district of Georgia.

DEPARTMENT OF DEFENSE

John Howard Moxley III, of California, to be an Assistant Secretary of Defense.

Hans Michael Mark of Virginia, to be Secretary of the Air Force.

Antonia Handler Chayes, of Massachussetts, to be Under Secretary of the Air Force.

Robert Jay Hermann, of Maryland, to be an assistant Secretary of the Air Force.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the vote by which the nominations were confirmed.

Mr. STEVENS. 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 ask that the President be notified of the confirmation of the nominees.

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

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. The Chair advises the Senator there are none.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR CONSIDERATION OF STATE-JUSTICE APPROPRIATIONS BILL (H.R. 4392) TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized under the standing order on tomorrow, the Senate proceed to the consideration of Calendar Order No. 265, H.R. 4392, the State-Justice appropriations bill.

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

TIME LIMITATION AGREEMENT—H.R. 4392

Mr. ROBERT C. BYRD. Mr. President, on H.R. 4392 I ask unanimous consent that there be a time agreement as follows:

Two hours on the bill to be equally divided between Mr. HOLLINGS and Mr. WEICKER; 30 minutes on any amendment; 20 minutes on any debatable motion, appeal, or point of order if such is submitted to the Senate; and that the agreement be in the usual form as to the division and control of time.

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

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of HR. 4392 (Order No. 265), an act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending Sept. 30, 1980, and for other purposes, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and that 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.

Ordered further, That on the question of the Final Passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Connecticut (Mr. WEICKER): *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, or appeal.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The Senator from Vermont is recognized.

RECESS UNTIL 10 A.M. TOMORROW

Mr. LEAHY. Mr. President, I move that the Senate stand in recess under the previous order until 10 o'clock a.m. tomorrow.

The motion was agreed to; and at 7:01 p.m. the Senate recessed until tomorrow, Tuesday, July 24, 1979, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 23, 1979:

DEPARTMENT OF DEFENSE

John Howard Moxley III, of California, to be an Assistant Secretary of Defense.

Hans Michael Mark, of Virginia, to be Secretary of the Air Force.

Antonia Handler Chayes, of Massachusetts, to be Under Secretary of the Air Force.

Robert Jay Hermann, of Maryland, to be an Assistant Secretary of the Air Force.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Marvin E. Aspen, of Illinois, to be U.S. district judge for the northern district of Illinois.

Susan H. Black, of Florida, to be U.S. district judge for the middle district of Florida.

James B. Moran, of Illinois, to be U.S. district judge for the northern district of Illinois.

Richard P. Conaboy, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania.

Sylvia H. Rambo, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania.

Lawrence K. Karlton, of California, to be U.S. district judge for the eastern district of California.

Warren W. Eginton, of Connecticut, to be U.S. district judge for the district of Connecticut.

William J. Castagna, of Florida, to be U.S. district judge for the middle district of Florida.

Orinda D. Evans, of Georgia, to be U.S. district judge for the northern district of Georgia.

Marvin H. Shoob, of Georgia, to be U.S. district judge for the northern district of Georgia.

G. Ernest Tidwell, of Georgia, to be U.S. district judge for the northern district of Georgia.

Robert L. Vining, Jr., of Georgia, to be U.S. district judge for the northern district of Georgia.

EXTENSIONS OF REMARKS

PROTECT WHEAT EXPORTS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. ABDNOR. Mr. Speaker, wheat exports are vitally important to American wheat producers in order to receive a reasonable price for their product. For American agriculture to prosper, foreign wheat exports must be expanded even more than the near record 30.6 million metric tons that were shipped in the 1979 marketing year.

Today I want to address a matter that has not only not increased U.S. wheat exports, but has actually acted to decrease them.

The European Economic Community used export subsidies in the 1979 market, which increased their exports by approximately 4.4 million metric tons, of which 75 percent or 3.3 million metric tons would have been supplied by the United States.

Because of this unfair trade practice, Great Plains Wheat—which is a wheat market development and promotion organization supported by wheat producers through their State wheat commissions in South Dakota, Kansas, Colorado, Minnesota, Nebraska, North Dakota, Oklahoma, Texas, and Wyoming—filed a complaint under section 301(a)(3) of the Trade Act of 1974.

The following is an excerpt from a letter I received from Secretary Bergland about this matter:

In response to the formal complaint filed by Great Plains Wheat under section 301 of the 1974 Trade Act, an Interagency Committee was established to look at the facts per-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.